



## Environmental Performance Partnership Agreement For July 1, 2003 - June 30, 2005

### *Between the Washington State Department of Ecology and the US Environmental Protection Agency - Region 10*

We, the undersigned, Tom Fitzsimmons, Director for the Washington State Department of Ecology and L. John Iani, Regional Administrator for the United States Environmental Protection Agency, Region 10, enter into this Environmental Performance Partnership Agreement for the protection of Washington's air quality and water quality and sound management of hazardous waste.

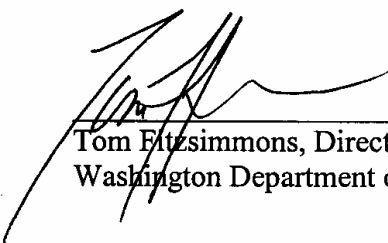
This Agreement is a reflection of the relationship between Ecology and EPA Region 10: a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment. In this Agreement, we have identified clear environmental priorities and desired results.

Both Ecology and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved, consistent with applicable regulatory dispute resolution procedures, at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in question. The final level of appeal will be the Director of Ecology and the Regional Administrator for EPA Region 10.

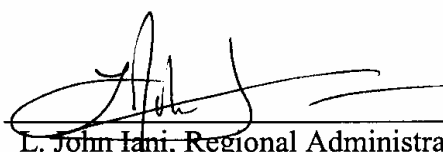
It is our belief that this Environmental Performance Partnership Agreement will improve environmental protection in Washington State. In addition, we hope this Agreement communicates to local communities, tribal governments and citizens our mutual goals and priorities for the 2004-2005 state biennium.

DATE: 7-1-03

Signed,

  
\_\_\_\_\_  
Tom Fitzsimmons, Director  
Washington Department of Ecology

DATE: 3 July 2003

  
\_\_\_\_\_  
L. John Iani, Regional Administrator  
US Environmental Protection Agency  
Region 10

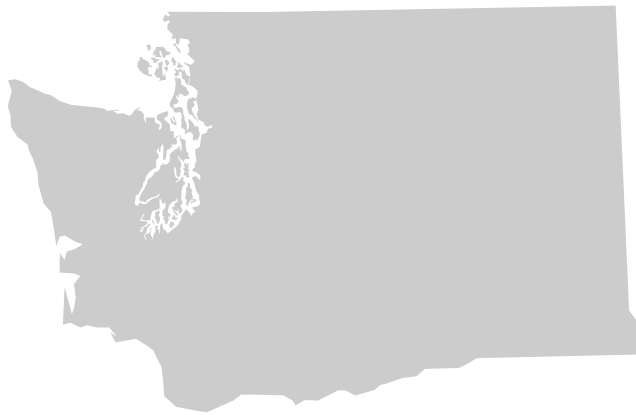




# Environmental Performance Partnership Agreement

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Publication Number 03-01-019



**The Washington State Department of Ecology  
and  
The US Environmental Protection Agency**

State Fiscal Years 2004-2005  
July 1, 2003 - June 30, 2005

**July 2003**

This Environmental Performance Partnership Agreement is also available on both Ecology's and EPA's Internet Home Page at the Internet addresses below.

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# **FY2004-2005 PPA**

*(Last revised: June 25, 2003)*

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# **SECTION ONE**

## **PERFORMANCE PARTNERSHIP**

### **OVERVIEW**

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This Environmental Performance Partnership Agreement (PPA) documents contractual commitments between the Washington Department of Ecology (Ecology) and the U.S. Environmental Protection Agency (EPA). The proposal includes activities of the water, hazardous waste (RCRA) and air programs of Ecology and EPA for the period from July 1, 2003 to June 30, 2005. This biennial agreement is scheduled to coincide with the state biennial budget process. This Performance Partnership Agreement (PPA) in no way restricts the legal oversight enforcement authority of the federal Environmental Protection Agency (EPA).

From the early 1980s through 1995, the State of Washington and EPA Region 10 participated in a State-EPA Agreement (SEA). This agreement encompassed the environmental priorities shared by several state agencies (Ecology, Health and Agriculture) and EPA Region 10. In 1995, state environmental agencies and EPA agreed to move to a National Environmental Performance Partnership System (NEPPS), with an Environmental Performance Partnership Agreement (PPA) taking the place of the SEA. The purpose of the change was to put greater focus on the environmental results of the activities that address our shared concerns, and to provide states with more flexibility in managing environmental programs.

As priorities for environmental investment evolve, the PPA will continue to reflect those changes. The basis for the commitments and plans contained in this PPA are the result of joint Ecology and EPA management and staff agreements. Comments on the Draft FY2004-05 PPA were also taken into consideration in preparing the final FY 2004-2005 Agreement.

In developing this Environmental Performance Partnership Agreement, particular attention has been paid to assessing reporting requirements and planning collaborative projects in all three environmental media. The nationally recommended Core Performance Measures have been assessed by both agencies, using common criteria, in order to limit reporting commitments to measures that are cost-effective and provide useful information to the agencies and to the general public.

## **PURPOSE**

The Department of Ecology and EPA support a shared responsibility in meeting the environmental and public health priorities of Washington State. The purpose of this Environmental Performance Partnership Agreement for the 2004-2005 biennium (July 1, 2003 through June 30, 2005) is to:

- Establish mutual environmental goals, strategies, activities and performance measurement for state fiscal years 2004 and 2005.
- Maintain a core level of environmental protection for all of Washington's citizens.
- Measure environmental progress using indicators that are reflective of environmental conditions, trends and results.
- Allocate Ecology and EPA Region 10 resources to the highest environmental priorities of the state.
- Establish a joint work plan for administering the federal grant dollars that EPA Region 10 provides to Ecology for air quality, water quality and hazardous waste management.

## **GUIDING PRINCIPLES AND STRATEGIES**

Ecology and EPA Region 10 agree to the following principles in working together to protect Washington's environment:

We will:

- Manage our collective resources to meet the highest environmental needs in the state;
- Provide service to the public;
- Continue to work as partners to build trust, openness, and cooperation;
- Capitalize on each other's strengths and expertise;
- Communicate frequently and openly between ourselves and others;
- Cooperate and coordinate with tribal governments and other federal, state and local government agencies; and,
- Carry out the compliance assurance principles referred to in this Agreement.
- Strive to achieve increased effectiveness and efficiency in how and when we make decisions regarding environmental permitting.
- Support innovative approaches to regulatory programs that improve environmental results, save money and resources, and minimize process steps.

# **ECOLOGY AND EPA MISSIONS, PRIORITIES, AND GOALS**

Ecology and EPA have similar missions, goals and objectives that guide agency operations and decisions. Our respective missions, goals and objectives are:

## **THE DEPARTMENT OF ECOLOGY**

The mission of the Department of Ecology is to protect, preserve and enhance Washington's environment, and promote the intelligent management of our air, land and water for the benefit of current and future generations.

To achieve this mission, Ecology has adopted the following goals:

- Prevent Pollution
- Clean Up Pollution
- Support Sustainable Communities and Natural Resources

## **THE ENVIRONMENTAL PROTECTION AGENCY, REGION 10**

On behalf of the people of the United States, EPA's mission is to protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

To accomplish this mission, EPA Region 10's environmental objectives are:

- Protect diverse ecosystems and ensure healthy airsheds and watersheds.
- Clean up contaminated sites.
- Minimize the discharge of pollutants to land, air and water.
- Prevent pollution through source reduction.
- Reduce the generation of air, land and water pollutants.

## **ECOLOGY/EPA JOINT PRIORITIES**

Ecology and EPA have agreed to the following priorities:

- Emphasize environmental results through the improved use of environmental indicators:
  - Incorporate, where practicable, national core performance measures.
  - Incorporate environmental indicators into program evaluations.

- Explore opportunities for coordinated work in watersheds and on issues related to Salmon Recovery and the Endangered Species Act.
- Explore opportunities to incorporate alternative methods to achieve compliance into national data reporting systems.
- Work to bring innovative initiatives and strategies into the mainstream.
- EPA will work to fulfill its responsibility on tribal lands, including program implementation and compliance assurance.
- Ecology will work to assure compliance with environmental laws.

## **ECOLOGY/EPA ENVIRONMENTAL GOALS**

Ecology and EPA Region 10 have agreed to the following environmental goals:

### ***Air***

- Ensure that every community in Washington State has safe and healthy air to breathe.
- Continuously improve air quality throughout Washington State.
- Seek opportunities to increase efficiencies and reduce transaction costs in program administration and implementation.

### ***Water***

- Attain water quality standards in all water bodies.
- Meet the biological needs of endangered and threatened species; enhance their chances for recovery.
- Restore and protect water quality through inclusive watershed planning.
- Achieve environmental protection through compliance assurance.

### ***Hazardous Waste***

- Minimize environmental threats caused by mismanagement of hazardous waste and unnecessary use of toxic chemicals.
- Reduce the production of hazardous waste in the state by at least 2% annually.
- Minimize and remediate contamination of water and soil through permitting, closure, and corrective action activities.

### ***Ecosystems***

- Improve the water quality and ecosystem function in high priority watersheds.

- Protect wetlands functions and values.
- Protect endangered and threatened fish species using coastal zone management regulatory tools.

## **MEASURING FOR ENVIRONMENTAL RESULTS**

A key purpose of the National Environmental Performance Partnership System is to focus attention on the environmental results of activities performed by state environmental agencies and EPA. State environmental agencies have worked with EPA to develop a national set of Core Performance Measures to track progress in their environmental efforts. The August 20, 1997 agreement between the Environmental Council of the States (ECOS) and EPA on Core Performance Measures stated a commitment to work together to reduce the overall reporting burden as we move toward more outcome-related reporting measures.

The Air Quality, Hazardous Waste, Water Quality and Ecosystem Programs in each agency have reviewed the media-specific performance measures appropriate to their programs, as well as core performance measures proposed for tracking Compliance Assurance and Enforcement activities. Those media-specific performance measures and appropriate core performance measures are specified in the Air, Water, Nuclear Waste and Hazardous Waste Program Sections below. Such outcome-related program measures and environmental indicators help align, evaluate, and communicate information regarding ecosystem conditions and progress towards meeting stated environmental goals. Through adaptive management, these measures and indicators also help to refine or otherwise change approaches to improve the effectiveness of respective agency programs.

Most of the activity reporting is accomplished through direct data submittal to federal databases, such as RCRAInfo, TRI and AIRS. This is an efficient mechanism that provides data to both agencies simultaneously. In the Water Programs, Ecology provides data to EPA Region 10, which their staff input into national databases. Ecology and EPA are committed to continued review and improvement of reporting requirements to most efficiently and accurately reflect outcome-based environmental indicators.

## **AGREEMENT COVERAGE**

This Agreement is between the Department of Ecology and EPA Region 10. Indian Country and tribal resources are not included under this Agreement. EPA and the state each have, and will continue to develop,

separate environmental agreements with individual tribes outside of this Agreement.

Both agencies recognize that numerous on-going relationships and commitments will continue, as negotiated. Unless superseded by this Agreement, all existing commitments and requirements remain in effect. These include, but are not limited to:

- Requirements pursuant to the Endangered Species Act (ESA) (see also any specific commitments below in the individual media sections)
- Delegation of the National Pollutant Discharge Elimination System (NPDES) Program
- Compliance Assurance Agreements for water, air and hazardous waste management
- State Revolving Loan Fund Operating Agreement
- State Revolving Loan Fund Intended Use Plan
- National Estuary Programs
- Nonpoint Source Assessment Report
- Nonpoint Source Statewide Management Plan
- Enforcement Response Policy for Resource Conservation and Recovery Act
- Resource Conservation and Recovery Act Memorandum of Understanding
- Operating Agreement for Clean Water Act Section 319 Nonpoint Source Grants Management

## **TRIBAL RELATIONS**

Ecology and EPA have relationships with federally recognized Indian tribes that have treaty rights in Washington State and that are sovereign nations having regulatory authorities within Indian Country and rights and resources reserved by treaties or by other means. The United States government has a unique trust responsibility to tribal governments arising from Indian treaties, statutes, executive orders and court decisions. The EPA Indian Policy commits EPA to operate within a government-to-government relationship with federally recognized Indian tribes and supports the principle of tribal self-government in the implementation and administration of federal environmental programs in Indian Country. EPA emphasizes to other agencies that implement environmental programs the importance of working with tribes and tribal interests. EPA also encourages cooperation between state, tribal and local governments to resolve environmental issues of mutual concern. The Endangered Species Act (ESA) and current and proposed listings of several species in Washington State as threatened or endangered make it extremely important that Ecology and EPA pay particular attention to working with and coordinating activities with tribes and tribal interests as plans are made to address ESA issues.

This Agreement is not intended to define or modify these relationships, and Indian Country and tribal trust resources are not included under this Agreement. Ecology and EPA each have, and will continue to develop, separate environmental agreements with individual tribes outside of this Environmental Performance Partnership Agreement. Since, however, work on all environmental issues within Washington State is important to EPA Region 10 and Ecology, both agencies will provide copies, upon request, of their separate environmental agreements with tribes to each other.

## **EPA GRANTS TO ECOLOGY**

This Agreement includes joint Ecology and EPA Region 10 activities related to air quality, hazardous waste management and water quality. Many of these activities are funded by EPA through the grants identified in the table below, and this Agreement constitutes the Ecology and EPA work plan for the award of, or continuation of, those grants. However, this Agreement does not cover all Ecology programs and work receiving EPA grant assistance. Likewise, some of the activities identified in this Agreement are not necessarily funded by federal dollars, but have been identified as areas of partnership between Ecology and EPA. However funded, the guiding principles and concepts stated above in this Agreement are reflected in all Ecology and EPA interactions.

For the Air Program and Water Program, Ecology and EPA are entering into a Performance Partnership Grant for state fiscal years 2004 -2005. This allows for a number of grant funding sources to be combined into one more flexible grant package. Funding sources included in this Performance Partnership Grant include: the Surface Water 106 Grant (Basic Water Grant); Groundwater 106 Basic Grant; Groundwater Pesticides Grant; Underground Injection Control Grant; and, the Clean Air Act Section 105 Base Grant. The purpose of the Performance Partnership Grant is twofold:

- Reduce administrative burden by consolidating several grants into one.
- Increase the flexibility of moving resources among grants and programs to meet the highest environmental quality needs in the state.

## **FY2004-05 PERFORMANCE PARTNERSHIP AGREEMENT GRANTS**

<b>ECY #</b>	<b>EPA #</b>	<b>ECOLOGY TITLE</b>	<b>EPA CATALOG TITLE</b>	<b>ESTIMATED EPA GRANT AMOUNT</b>	<b>END DATE</b>
<b><u>AIR QUALITY</u></b>					
FB00	66.605	Air Section 105 Base SFY04-05	Performance Partnership Grant	6,200,000	6/30/05
<b><u>HAZARDOUS WASTE</u></b>					
M203	66.801	Hazardous Waste RCRA FY04	Hazardous Waste Management Support	\$1,918,000	6/30/04
M203	66.801	Hazardous Waste RCRA FY05	Hazardous Waste Management Support	\$1,918,000	6/30/05
<b><u>WATER PROGRAMS</u></b>					
FB00	66.605	Water Grants	Performance Partnership Grant	10,000,780	6/30/05

## **PPA QUALITY ASSURANCE AND EVALUATION PROCESS**

At the end of fiscal year 2004 (June 30, 2004) and the end of fiscal year 2005 (June 30, 2005) for this Performance Partnership Agreement, Ecology and EPA Region 10 will assess progress, as well as identify adjustments and additional actions that need to be taken, to assure compliance with the terms of this Agreement. This assessment will include the following elements:

- Effectiveness: how readily the Agreement enabled Ecology and EPA to direct resources to improve environmental outcomes.
- Public credibility: how credible and reliable the public finds the measures used to report environmental outcomes.
- Fiscal soundness and program accountability: how well this Agreement enabled Ecology and EPA to manage public funds in an efficient, effective and economical manner.

The findings from these evaluations will be used to develop any further refinements to the Agreement that might be needed.

Program reviews from EPA and other federal agencies are to be expected. Reviews from the General Administration Office and Inspector General Office occur periodically, but will generally not be scheduled in advance. EPA Programs and the Office of Enforcement and Compliance Assurance (OECA) have the ability to schedule and establish program reviews or audits with the state agency. It is important that EPA considers the workload component of such reviews, and coordinates their scheduling of review with those of other federal agencies.



Ecology and EPA have a site on their respective webpages devoted to assessment and oversight of the PPA process. This site includes relevant public documents, such as end-of-year reports, for the different media Programs.

## **QUALITY ASSURANCE REQUIREMENTS FOR GRANTS, COOPERATIVE AGREEMENTS, AND ASSISTANCE**

Ecology needs data about the condition of the air, the water, and the land in order to achieve its goals to prevent pollution, clean up pollution and support sustainable communities and natural resources. Accurate environmental data are critical for understanding problems and taking corrective actions. Data quality assurance is important to ensure that the millions of dollars spent on environmental sampling and analysis provide the quality of data needed for decision-making. Additionally, most of EPA's grant money to Ecology requires certification that Quality Assurance Plans are developed and implemented.

Quality assurance requirements for Grants and Cooperative Agreements to State and Local Governments are contained in 40 CFR Part 31 and quality assurance requirements for State and Local Assistance are contained in 40 CFR Part 35. The following paragraphs describe how Ecology has been meeting those requirements.

Ecology's Quality Management Plan (QMP) was revised in June, 2000, to conform to the Environmental Protection Agency's (EPA's) format and requirements and to align Ecology's plan with EPA's approach to environmental data quality. This Plan was approved by EPA Region 10's Quality Assurance Manager and, based on that approval, Ecology was delegated the authority to review and approve Quality Assurance Project Plans (QAPPs) based on procedures documented in the QMP.

The QMP specifies that the Director is responsible for designating the QA Officer and that Program Managers are responsible for designating QA Coordinators. Guidelines for preparation of the QAPPs were revised and published as the *Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies* (Publication No. 01-03-003, February 2001). These revised guidelines incorporated improvements from EPA's guidance and from Ecology's experience in preparing and reviewing QA Project Plans.

Ecology's QMP specifies that the Quality Assurance Officer must prepare a status report for management every two years; this status report should also include recommendations for improvements in the Plan and its implementation.

The EPA Region 10 Quality Assurance and Management Unit will be performing a system audit of Ecology during the calendar year 2003. The purpose of the audit will be to verify that the Quality Management Plan is being correctly implemented and that Ecology is meeting all other EPA quality assurance requirements for grants, cooperative agreements and assistance.

## **PUBLIC INVOLVEMENT**

The Draft Environmental Performance Partnership Agreement for SFY (state fiscal year) 2004-2005 was published May 1, 2003. Notice of the draft PPA's availability on Ecology's Internet webpage and EPA's Internet webpage was announced as follows:

- Letters of availability of the Public Comment Draft were sent by the Hazardous Waste and Toxics Reduction Program (HWTR) to an email list of 366 individuals on its "DW Rules" list of interested persons;
- An additional 50 letters were sent by regular mail to individuals provided by the HWTR Program.
- Letters of availability of the Public Comment Draft were sent by the Water Program to an email list of 121 individuals on its distribution list of **Partnership Members and Interested Parties** for water quality issues;
- An additional 35 letters were sent by regular mail to individuals provided by the Water Quality Program;
- 107 letters of availability of the Public Comment Draft were sent by regular mail to individuals with an interest in air quality issues provided by the Air Quality Program;.
- An email notice of availability was sent to Washington PEER, with the request that they forward it to anyone on their contact lists whom they think might be interested.

## SECTION TWO

# ENVIRONMENTAL JUSTICE

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Environmental Equity/Justice entails the fair treatment and meaningful involvement of all people regardless of race, age, gender, national origin, education, or income level in the development, implementation, and enforcement of environmental laws, regulations, and policies. Whether it's implementing programs to issue air operating permits or water discharge permits, to facilitate cleanup of contaminated sites, or to pursue enforcement actions, both partners are committed to eliminating disproportionate impacts on low income and minority communities.

The Washington State Department of Ecology (Ecology) and Region 10 of the Environmental Protection Agency (EPA) are committed to on-going coordination efforts to improve the state of environmental justice in Washington State. Respective environmental justice designee / coordinator for each agency will carry out these tasks.

### Specific Elements:

1. **Monthly calls.** Both parties agree to schedule and conduct monthly telephone calls to identify and track current Environmental Justice (EJ) issues and events in Washington State. The goal is to increase both agencies' knowledge and understanding of EJ issues and identify opportunities for collaboration on these issues. In-person meetings are also possible venues for this coordination.
2. **One EJ Listening Session.** Both parties will work to jointly sponsor at least one EJ 'listening session' in Washington State. The primary goal of this event is listening to community groups who wish to address EJ issues of question or concern. EPA has hosted such sessions in other regions in collaboration with states with positive results, including practical guidance on how to successfully plan for and carry out such sessions.
3. **EJ Networking Meeting.** As time and resources allow, both parties agree to collaboratively host one or more EJ networking meetings, as have taken place in the past in Seattle. The goal with these meetings is to learn from, and work with neighboring states, other WA state agencies, local government agencies, public health-related entities, tribes, communities, etc. These entities reflect the

many institutions that have some degree of capacity to address local and/or statewide EJ enhancements. These networking meetings have a local area as a focus, such as larger urban areas, or local regions regarding participating entities. The Washington State Interagency Environmental Justice Work Group, an unofficial collaborative of WA State agencies interested in EJ is an example of one forum for this kind of networking effort.

4. **EJ Training.** As resources are available, both parties will pursue EPA's EJ training for Ecology staff. This may include training at least one Ecology employee in the "EJ Train-the-Trainer" class.

## SECTION THREE SUSTAINABILITY

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The Department of Ecology and EPA Region 10 recognize the value of incorporating the principles of "sustainability" into the work addressed in this Performance Partnership Agreement (PPA). A pledge to long-term sustainability planning and implementation is integral to the on-going cooperative relationship between the two agencies.

At its most basic level, sustainable means "meeting the needs of the present without compromising the ability of future generations to meet their own needs." Ecology has adopted eight principles of sustainability which it has used as a definition since 1998. These principles are also consistent with those of EPA, and several of them are reflected in the text of Washington's Executive Order on Sustainability.

Ecology's eight principles of sustainability are:

- There is interdependence between ecological, economic and social factors in achieving sustainability.
- The concept of waste can and should be eliminated.
- Healthy natural systems are the basis for sustainable communities and economies.
- Future generations should be equal partners in decision making.
- Local decisions have regional and global implications.

- Incentives are necessary to create sustainable behavior.
- Investment in the design phase of a process or product drives sustainable outcomes.
- Human relationships and a collaborative approach lead to sustainable solutions.

## Specific Elements:

In support of sustainability, the two agencies agree to:

1. **Mutual Support for Executive Order 02-03:** Ecology and EPA Region 10 fully support Washington’s Executive Order 02-03 “Sustainable Practices by State Agencies,” and the responsibilities of Ecology in implementing its directives. In particular, the Executive Order directs the development and implementation of a Sustainability Plan for the agency, which includes “institutionalizing sustainability as an agency value” as one of its goals. Close coordination with EPA Region 10 is an important part of institutionalizing sustainability. Other common goals include raising employee awareness, minimizing resource use, shifting to clean energy, and reducing or eliminating waste.
2. **Establish Lead Contact Staff:** Ecology and EPA will identify respective Sustainability lead contacts, who will then share periodic calls (monthly or when appropriate) to track issues and identify opportunities for coordination and leverage regarding key sustainability issues in Washington State and the region.
3. **Sustainability Meeting Between Ecology and EPA:** Ecology’s Sustainability lead, working collaboratively with Ecology’s Sustainability Team, will host a meeting with an equivalent group of Region 10 sustainability-focused staff at least once in the year. The meeting will focus on building opportunities for coordination and the sharing of limited resources to further regional efforts. The meeting will also address potential regional approaches to sustainability issues.

## **SECTION FOUR**

### **COMPLIANCE ASSURANCE OVERVIEW**

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#### **COMPLIANCE ASSURANCE PRINCIPLES**

The Department of Ecology and EPA share a desire for a strong compliance assurance program that achieves environmental protection by identifying non-compliance problems, punishing violators, deterring future violations, and ensuring a level playing field for law abiding companies. At the same time, both agencies advocate the use of a broader range of solutions to noncompliance, including compliance assistance and compliance incentive approaches.

The Department of Ecology, along with the other Region 10 states, has endorsed a set of principles with EPA Region 10 to guide the relationship and actions in compliance and enforcement matters; these are contained in the EPA document entitled "EPA/State Agency Agreement on Compliance Assurance Principles June 1997." The principles cover collaborative planning, agency roles, performance measurement/oversight and information sharing/data responsibilities. The principles are intended to help EPA and Ecology achieve maximum results with available state and federal resources.

These principles provide a framework in which the media-specific workplans associated with this PPA Agreement are developed and implemented, and in which media-specific Compliance Assurance Agreements are developed (Appendix A of the Compliance Assurance Manual (June 2002)). The Department of Ecology and EPA will use these principles to guide our interactions, and we will continue to work together to improve our use of the principles.

#### **POLICY**

EPA's policy on the issuance of environmental penalties includes a requirement to consider the economic benefit of non-compliance in penalty calculations. EPA further provides a computer program called the BEN model for optional use in calculating economic benefit. Ecology's Compliance Assurance Manual (June 2002) (CAM) includes a statement that Programs should consider economic benefit within their penalty calculations when appropriate to do so. The CAM states, in part:

*“The [Pollution Control] Board may also consider whether or not the violation resulted in an economic benefit. If the inspector determines the violator likely received an economic benefit from violating the law, she/he is asked to quantify the benefit and add it to the penalty amount up to the maximum allowed by law. If economic benefit is suspected but cannot be quantified it is not included in the penalty amount.”*

Thus, the use of EPA's BEN model is an option, but not mandatory. Ecology's Air and Water programs include economic benefit in their calculation formulas. The Hazardous Waste program has amended their Compliance Assurance Policy (see Appendix A of the CAM) to include economic benefit as a discretion factor in the penalty calculation process.

## **ALTERNATIVE METHODS OF ACHIEVING COMPLIANCE**

The Department of Ecology is involved in a number of activities intended to assure compliance with applicable environmental laws and regulations. These efforts include traditional enforcement and compliance activities such as inspections, fines and other types of penalties. In addition, alternative inspections, compliance assistance initiatives, educational programs, public awareness and notification and pollution prevention are all part of the enforcement program. Each program uses a number of different approaches to achieve compliance. These alternative methods to achieve compliance and their overall effect at reaching desired environmental outcomes will be discussed during year-end reviews with EPA.

## **PROGRAM EVALUATIONS**

A set of principles has been developed by the Department of Ecology, the other Region 10 states, and EPA Region 10 to further clarify expectations for program evaluations; these principles are included in the EPA document entitled “Compliance Assurance Program Evaluation Principles - 1998.” These principles address (1) Program Evaluation Goals and Objectives, (2) Frequency of Evaluations, (3) Evaluation Areas, (4) Information Sources, (5) Communications and (6) Process Management. In addition to adhering to these principals, any plans for focused program evaluations in accordance with these principles are identified in the respective media program workplans.

## SECTION FIVE

# PERMIT STREAMLINING OVERVIEW

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### PERMIT STREAMLINING PRINCIPLES

EPA has delegated or authorized Ecology to implement several environmental permitting programs as part of Ecology's overall delegated responsibilities. In these delegated permit programs, Ecology assumes the primary responsibility for drafting and issuing the permits while EPA reviews Ecology's delegated programs, permits and policies to assure that national standards and consistency are satisfied. This section spells out general expectations and agreements between EPA and Ecology as Ecology implements these permit programs while striving to make the permit issuance process more efficient and effective.

Ecology and EPA share a desire for strong permit programs that achieve environmental protection through setting appropriate water quality discharge limits, air quality emission limits, and hazardous waste operating and cleanup standards. At the same time, both agencies strive to achieve increased efficiency and effectiveness in how and when permit decisions are made. With limited resources and expanding workload, both agencies are committed to minimizing transaction costs, avoiding duplication, expediting process steps, and focusing on environmental results.

EPA and Ecology have endorsed the following principles to guide the relationship and actions toward streamlining permit decision-making. These principles provide a framework in which media-specific work plans associated with this PPA are developed:

#### ★ **Priorities and Resources**

Ecology implements permit programs that are very mature (NPDES, RCRA) and programs that are relatively new (Title V and PSD). Both EPA and Ecology strive to use our limited human resources as efficiently as possible. Typically, neither agency has the resources to develop ideal permits. Where resource decisions must be made, both agencies will focus on environmental results and priorities. While the permit process is important to produce a legally defensible document and to allow for meaningful public review, both agencies agree that within the bounds of meeting these two objectives, the permit process should be streamlined.



EPA will continue to shift its focus from real-time individual permit reviews to more global program reviews.

### **★ Permit Development and Review**

Ecology intends to give EPA an opportunity to review draft permits during the development period and before the formal 30 day comment period. For the permits that are reviewed, EPA will attempt to raise substantive issues while the permit is being developed so issues can be addressed prior to formal public review. EPA expects to review progressively fewer permits as permit programs mature. EPA also expects the scope of individual permit reviews will change as permit programs mature, with reviews becoming more targeted on significant issues. Ecology will focus on efficient issuance of permits and is expected to request technical assistance on significant issues where national guidance is unclear or in transition.

### **★ Innovation**

The complexity of environmental issues and the lack of adequate resources for both agencies demands that we continually look to new and innovative methods for issuing permits. It is also important to “mainstream” innovative approaches that have been shown to work into and across programs. Ecology and EPA are committed to find ways to improve efficiency and effectiveness, which may result in developing permits differently and finding flexibility in our regulations to avoid duplication. Ecology’s Industrial Section, with EPA assistance, will look for innovation in the development and administration of permits specifically for the major industrial sectors (pulp and paper, aluminum reduction, oil refining).

Ecology and EPA are pursuing other innovative approaches to environmental protection. Ecology is pursuing permit streamlining approaches as referenced in Section Five of this PPA. EPA has drafted an Innovations Strategy that encourages EPA and States to take a performance-based approach to environmental protection. EPA and Ecology also work together to encourage the implementation of Environmental Management Systems within facilities, and to support environmental stewardship through their joint work on innovation programs such as the National Environmental Performance Track program. Ecology and EPA will continue to seek ways to strengthen the EPA-State innovation partnership.

## ★ Oversight

EPA will focus its oversight attention on permitting activities and issues that will result in environmental improvements, program integrity and consistency, and the ramifications of legal challenges, hence EPA's approach will therefore primarily assess adequacy on an overall program basis but not on a case-by-case permit review. EPA's review of the adequacy of Ecology's delegated permit programs will be handled as part of the End-of Year program evaluations (two times in the course of the biennium) when both agencies assess progress on commitments outlined in the work plans and PPA.

In addition EPA, the Inspector General's office or the General Services Administration may periodically conduct intense reviews of delegated programs. Where EPA is in control of the review, the review will be referenced in the PPA and EPA will follow the relevant sections of Compliance Assurance Principles (May 1997) in conducting the review.

## SECTION SIX AIR QUALITY PROGRAM

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### Summary

The air in every Washington community should be safe and healthy to breathe. Given that air pollution crosses local, state, tribal and federal borders, there is a clear need for coordinated leadership on the part of the Environmental Protection Agency (EPA), the Washington State Department of Ecology (Ecology), and Washington's seven local air pollution agencies (LAA's). Effective partnering on the part of these agencies has produced significant improvement to Washington's air quality over the past decade. The number of days Washington violated federal health-based air quality standards for criteria pollutants has seen a dramatic decrease over the years, from 150 days in 1987 to two days in 2002.

This Environmental Performance Partnership Agreement (PPA) is dedicated to improved environmental quality by strengthening and extending the partnership among Ecology, EPA, and Washington's seven

local air pollution agencies. To achieve that end, partners to this agreement commit to the following mission statement:

*“Protect, preserve, and enhance the air quality of Washington to safeguard public health and the environment and support high quality of life for current and future generations.”*

This PPA describes the actions and activities which the partner agencies will perform to achieve this mission. The partners in this agreement are committed to continued prevention of violations of federal air quality standards. The partners in this agreement are committed to actions that reduce emissions of, exposure to, and risk from two high priority pollutant categories: airborne toxic pollutants, and fine particles. The partners in this agreement are committed to continuing to implement and improve high quality programs for the prevention and reduction of air pollution, including an effective program to ensure compliance with all air quality laws and regulations.

## **Review Process**

Ecology, EPA, and the Local Air Agencies have agreed to the following performance evaluation process and reporting schedule.

At the end of each fiscal year (12 and 24 months) of this PPA, EPA and the Department of Ecology will prepare a report and meet to review it. The reports will consist of a qualitative discussion of significant points that have occurred or are expected to occur that will affect the agreement. The reports are due 90 days after the end of each state fiscal year. The report and review will include:

- assessment of trends in indicators or environmental results
- assessment of outcome measures or results for each objective.
- major challenges to date
- major challenges for the next reporting period
- changes such as new legislation, guidance, or approaches and any resulting adjustments to products
- actions needed from each agency to achieve objectives
- funding issues

### **Other Check-In Points**

Annually, the Washington Air Quality Managers Group will include, as part of their regular meeting, a discussion of progress in implementing this agreement. This check-in might include:

- challenges that have arisen to completing any major outputs or activities
- new information that might affect this agreement (e.g. legislative actions or guidance from EPA headquarters)
- proposed changes in priorities or shifts in resources

## **Objective 1: Reduce emissions of, exposure to, and risk from airborne toxics.**

(Ecology FTE – 8; EPA FTE – 1.5)<sup>1</sup>

### **Environmental Indicators**

Trends in toxics emissions as reported in the National Toxics Inventory (NTI) and National Air Toxics Assessment (NATA)

### **Outcome Measures**

1. Toxics emissions as reported in the National Toxics Inventory (NTI) and state emissions inventory are accordance with the rankings and priorities developed under the state strategic plan and accurately reflect toxics emissions.
2. The NATA (available every three years) changes from 1999 to 2002 to more accurately reflect Washington's risk from air toxics.
3. The public is more aware of risk posed by air toxics from outreach information and surveys.

### **Outputs**

1. Ecology will develop prioritized reduction strategies based on the ranked listing of toxic pollutants including diesel emissions.
2. Ecology will review NTI data within six months of receipt.
3. Ecology and the Puget Sound Clean Air Agency will prepare toxics Emissions Inventories (EI) annually.

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<sup>1</sup> The staffing levels (FTE numbers) for all the objectives are based on current allocations. Given the WA state budget shortfalls, they will be lower in the 04-05 bienium, but the final budget and staffing implications are still unknown.

4. Ecology will evaluate its ability, capacity and interest to assume delegation of the residual risk program.

### **Ongoing Activities**

#### Ecology, in partnership with Local Air Agencies, will:

1. Operate monitoring stations, collect and evaluate data for the Seattle National Priority Pilot Project.
2. Collect emission inventory data annually.
3. Review NTI data, if available, and submit any necessary changes.
4. Continue to implement statewide monitoring strategies.
5. Adopt and request delegation of those NESHAPS Ecology chooses to implement.
6. Evaluate its ability, capacity and interest to run the residual risk standards and program.

#### EPA will:

7. Provide NTI data.
8. Provide guidance on national air toxic policies and programs.
9. Provide background information and outreach from NATA and other states and national programs.
10. Complete NESHAPS delegation within three months of request and process updates within three months.
11. Provide comprehensive training courses and materials on air toxics risk assessment, and provide technical assistance and guidance for the future development of a residual risk program.
12. Update Part 63 MACT subpart delegations into MACTrax

#### Jointly, EPA and Ecology will:

13. Collaborate on presenting new or revised air toxics data, policy and strategies.

14. Collaborate on evaluating the residual risk standards and residual risk program.

### **Reporting**

1. For major and synthetic minor sources, Ecology, Local Air Agencies and EPA will enter Subpart 63 MACT sources into the AIRS Facility Subsystem (AFS). Ecology and Local Air Agencies will report the Minimum Data Reporting (MDRs) elements in addition to the applicable subparts.

## **Objective 2: Reduce emissions of, exposure to, and risk from particulate pollutants with emphasis on combustion products.**

(Ecology FTE – 12; EPA FTE – 1.5)

### **Environmental Indicators**

1. Reduce the impact of emissions from indoor and outdoor burning as measured by air monitoring and citizen complaints.
2. Mitigate exposure to air pollution and health risks from natural events through implementation of Natural Events Action Plans for smoke and dust.

### **Outcome Measures**

1. Citizens are aware of the condition of the air they are breathing.
2. The public is aware of potential risks from natural events, knows what to do when faced with smoke or dust from natural events, and has an opportunity to act on that information.
3. Citizens understand how combustion activities affect air quality.
4. Home heating is accomplished with decreasing air quality impact.
5. Alternatives to outdoor burning are fostered, encouraged, and increasingly utilized.

## **Outputs**

1. Review and Update the Natural Events Action Plan for Chelan County Wildfire during the term of this PPA.
2. Ecology will address the NEAP for the Wallula PM10 nonattainment area as part of the maintenance plan by June 30, 2005.
3. Ecology will initiate agricultural burning rule-making revisions in calendar year 2004 with a target for implementation during the fall of 2006.
4. EPA will develop a multi-year Smoke and Air Quality Strategy to identify and prioritize regional issues and efforts related to fire emissions by October 30, 2003.
5. EPA will, with Ecology support, enhance the integration of burn calls among areas through development of smoke modeling tools, sponsoring interagency meetings and coordinating among jurisdictions.

## **Ongoing Activities**

### NEAP

1. Ecology and Local Air Agencies implement natural events policy and NEAP.
2. Ecology informs the public of seasonal risks when natural events could result in an exceedance and gives public health mitigation information.
3. Ecology and Local Air Agencies submit documentation of natural events within 180 days after exceedance to EPA.
4. Ecology and EPA flag natural event in accordance with the Natural Events Policy and the NEAP.

### Agricultural and Outdoor Burning

5. Ecology implements the open burning rule in cooperation with fire protection authorities and local governments.
6. Ecology will, with EPA support, keep smoke levels low by monitoring and managing conditions very closely using systems that measure demand for burns, near real-time air quality and meteorological conditions.

7. Ecology will, with EPA support, limit emissions from agricultural burning through a rigorous permitting program accompanied by defensibly strict guidance on what reasons for burning are allowable/now allowed.
8. Ecology will, with EPA support, make advancements in the reduction, management, regulation and control of outdoor burning emissions on both a geographic and a sector (type of burning) basis.
9. Ecology will, with EPA support, make burn calls and enhance the integration of burn calls among areas.
10. Ecology, in collaboration with EPA and others will provide outreach and education on smoke and health issues, including the results of the Pullman agricultural burning health effects assessment.
11. EPA and Ecology will collaborate on collecting, analyzing, and sharing agricultural burning data and information.
12. EPA will serve as regional coordinator by working with other northwest states and Tribes to improve smoke management coordination and tools.
13. Ecology will establish real-time permit management, public information, and air quality advisory systems for outdoor burning.
14. Ecology and Local Air Agencies will limit emissions from outdoor burning through a rigorous permitting program accompanied by defensibly strict guidance on what reasons for burning are allowable/not allowed.
15. Through research, education, and partnerships, Ecology and EPA will foster and encourage non-burning alternatives and higher end-uses of vegetative/organic residue/material.

#### Indoor Burning

16. Ecology and Local Air Agencies will implement approved attainment and maintenance plan commitments, such as woodstove curtailment programs, and voluntary measures such as smog watch and burn curtailments.
17. Ecology and Local Air Agencies will design and deliver tailored wood stove education programs targeting and in conjunction with retailers, owners, builders, and agencies with common/overlapping interests.



18. Ecology will identify regional communities with potential wood smoke problems (measured, perceived, projected).

## **Reporting**

1. Ecology submits annual reports on the CORE 4 data that is used to track BACM implementation under the NEAP.

## **Objective 3: Prevent exceedances of the National Ambient Air Quality Standards (NAAQS)**

(Ecology FTE – 43.4; EPA FTE – 3)

### **Environmental Indicators**

Trends in exceedances of NAAQS by region and by pollutant.

### **Outcome Measures**

1. Annual reports indicate no exceedances of ambient air quality standards.

### **Outputs**

1. Ecology submits a serious area PM10 attainment plan for Wallula by December, 2003 and a serious area PM10 maintenance plan and redesignation request for Wallula by June, 2005.
2. Ecology submits a serious area CO maintenance plan and redesignation request for Spokane by June, 2005.
3. Ecology submits a moderate area PM10 maintenance plan and redesignation request for Spokane by June, 2005.
4. Ecology submits a moderate area PM10 maintenance plan and redesignation request for Yakima by December, 2003.
5. Ecology completes and submits to EPA an annual monitoring network review by July 1 of each year.

6. Ecology and locals submit to EPA New Source Review rules that are implementable, federally approvable, and consistent state-wide.
7. EPA submits to Ecology and locals comments on draft New Source Review rules, including the extent to which they are implementable, federally approvable, and consistent state-wide.
8. Ecology and EPA will work together to develop an agreement, by August, 2003, for how to meet the critical requirements of the visibility and regional haze programs.

### **Ongoing Activities**

1. Ecology and locals will operate statewide National Air Monitoring Site (NAMS)/ State and Local Air Monitoring Site (SLAMS) network, according to 40 CFR. Part 58.
2. Ecology submits NAMS/SLAMS data to AIRS within 90 days of the end of each calendar quarter.
3. EPA will review and approve an annual monitoring network review within 90 days of submission.
4. Ecology maintains quality assurance program for ambient data as required by 40 CFR Part 58, Appendix A.
5. EPA provides annual quality assurance audits as required by 40 CFR Part 58, Appendix A.
6. For Wallula and Spokane Maintenance Plans, Ecology submits to EPA Emission inventory preparation plans, technical analysis protocols, and SIP preparation plans.
7. Ecology will monitor PM10 plan implementation in Colville.
8. EPA will provide guidance on SIPs.
9. EPA will initiate and Ecology and Local Air Agencies will participate in SIP PIP review meeting to assess effectiveness of SIP PIP by December, 2003.
10. EPA, Ecology, and the Local Air Agencies will communicate at least once per quarter to discuss the status of pending SIP submittals.

11. Ecology and local agencies will update and revise their rules and regulations as necessary or appropriate to maintain effective air quality programs and submit timely SIP revisions to EPA.
12. EPA will act on SIP submittals within statutory deadlines where doing so is consistent with Ecology's highest priority submittals.
13. Ecology and local agencies will implement approved attainment and maintenance plan commitments, such as woodstove curtailment programs, Inspection and Maintenance (I & M) programs, etc; and voluntary measures such as smog watch and burn curtailments.
14. Ecology will secure Attorney General's Office review of Ecology regulations to be submitted for inclusion in the SIP, prior to sending to EPA for review.
15. Ecology, Local Air Agencies and EPA will evaluate ways to secure appropriate legal review of local regulations to be submitted for inclusion in the SIP. (due September 2003).

## **Reporting**

1. Ecology submits AIRS data within 90 days of the end of the quarter.
2. Ecology submits fast-track ozone daily during ozone season.
3. Ecology prepares quarterly Quality Assurance (QA) reports.
4. Ecology notifies EPA of exceedances of ambient air standards within 24 hours of receiving valid data.
5. EPA will inform Ecology and local agencies of SIP submittal processing status monthly.

## **Objective 4: Implement and improve core programs**

(Ecology FTE – 47.5 includes Industrial Section and nuclear program; EPA – 3.5)

### **Environmental Indicators**

Timeliness of EPA, Ecology and local agency actions.

### **Outcome Measures**

Federal, state, and Local Air Agencies provide increasingly effective service to prevent and reduce air pollution in Washington.

### **Outputs**

1. Ecology, EPA, and Local Air Agencies will use electronic communications, including web pages to inform and interact with the public.
2. Ecology, EPA, and Local Air Agencies will use data resources to support communication on, and understanding of, identified air pollution problems.
3. EPA and Ecology will complete their Prevention of Significant Deterioration (PSD) rulemaking by June 30, 2005.
4. All affected agencies will complete the review of initial Title V permits according to an agreed upon schedule.
5. Ecology and EPA will complete MACT and NSPS delegations.
6. Ecology will submit to the National Emission Inventory (NEI) major point source emissions data for 2002 as defined in the Consolidated Emissions Reporting Rule (CERR) 40CFR Part 51 by June 1, 2004. These data must be submitted to the NEI via the Central Data Exchange (CDX).
7. Ecology will submit emission reports for point sources of Hazardous Air Pollutants to the NEI via CDX by June 1,

2004. Ecology will continue to request reporting of all HAPS species and will submit what we receive.

8. Ecology will provide EPA comments on the 2002 Criteria NEI (Version 1.0) input by February 1, 2004. EPA will have Version 1.0 available for review by December 2003. Ecology will update area/mobile source data with the 2002 EI data from the 2003(?) Visibility SIP Review by February 1, 2004.
9. Ecology will provide EPA comments on the 2002 Criteria NEI (version 2.0) input by February 1, 2005.

### **Ongoing Activities**

1. Ecology and Local Air Agencies will implement the administrator authorities for New Source Performance Standards (NSPS) as currently delegated and/or agreed on during collaborative planning with EPA.
2. EPA will implement the NSPS program in Indian Country and where not delegated to Ecology or local agency.
3. Ecology and Local Air Agencies will update adoption and delegation requests for selected MACT and NSPS standards as needed.
4. Ecology and Local Air Agencies will implement the Title V program (Title V activities are not an element of the grant work plan).
5. Ecology and Local Air Agencies will implement the Prevention of Significant Deterioration (PSD) program as per the current delegation; Notice of Construction (NOC) program; orders limiting Potential to Emit, and other applicable permit programs such as burning, etc.
6. EPA will process delegation requests within 90 days of receipt.
7. Ecology will collect data and prepare emission inventory and air monitoring databases to support air quality modeling.

### Air Operating Permits (Title V):

8. Due to both the maturing nature of the Title V program in Washington and EPA's resource limitations, EPA intends to focus on program reviews, rather than real-time permit reviews. Program reviews will be used to define areas of focus and will help to target EPA's oversight function. Although EPA has not identified any specific Title V permits for review in this biennial PPA period, EPA may randomly

select a number of issued permits for review as part of the program review.

As a result of the programmatic review, EPA may identify general areas of concern or even specific permits of interest. Ecology will involve EPA, as appropriate, in early reviews of draft permits that have been identified as being of interest. Given resource limitations, this is expected to be a small number. Because Ecology has developed target timeframes for development of draft permits as part of a continuing effort to provide predictability to permittees, EPA will work with Ecology to assure that such early involvement does not interfere with timely delivery of Ecology permits.

In the event that new concerns arise during this PPA cycle, EPA or Ecology will provide those concerns, in writing, to the other agency. Both agencies will also use existing forums to convey this new information, (e.g. the permit engineers group, the managers group, etc.)

#### Local Air Agency Activities

9. Ecology will use the five PPA objectives as guidance for developing pass-through grant agreements with Local Air Authorities. The formal Performance Partnership Agreement is between EPA and Ecology. LAA activities are referenced where local agencies are important and essential implementers for particular outputs or activities and have data needed for comprehensive EPA reports. The Agreement does not represent a comprehensive depiction of LAA programs or integration of them into the PPA process. The grant funded activities and FTE's of LAAs are not part of the PPA.

#### **Reporting**

1. Ecology and EPA will provide to one another copies of documents generated for sources or activities in accordance with Section VII of the PSD Delegation Agreement as signed on March 28, 2003.
2. For federal New Source Review (PSD & nonattainment), Ecology and the Local Air Agencies will enter Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) determinations into EPA's RACT/BACT/LAER Clearinghouse within three months of issuance of final permit.
3. Ecology will submit the annual Air Quality Trends Report to EPA by January of the following calendar year.

4. Ecology will submit the annual Air Monitoring Data Summary Report to EPA by September of the following calendar year.

## **Objective 5: Implement and improve an effective compliance assurance program.<sup>2</sup>**

( Ecology FTE are reported in Objectives 2 and 42; EPA – 2.5)

### **Environmental Indicators**

Emissions limited, reduced or prevented through a comprehensive program of compliance management – including enforcement.

### **Outcome Measures**

1. High rates of compliance with regulations and permits (measured by reviewing AFS violation data and the number and ratio of High Priority Violations (HPVs).
2. Credible deterrence to non-compliance (measured by the number/percentage of repeat violations from sources with prior HPVs) and credible resolution of violations.
3. Partner agencies understand and respect each other's priorities (measured by discussion at the annual spring collaborative planning meeting).

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<sup>2</sup> The level of compliance assurance activity varies from month to month depending on seasonal inspection activity and number of enforcement cases. On average, an estimated 2.15 of the Ecology FTE's reported in Objective 2 support the compliance assurance activities of Objective 5. On average, an estimated 2.65 FTE's of the Ecology FTE reported in Objective 4 support the compliance assurance activities of Objective 5. Local Air Agencies also carry out substantial compliance activities that are not included in these FTE.

## **Outputs**

### Compliance Assurance Agreement

1. EPA, in cooperation with Ecology and the Local Air Agencies, will re-negotiate the Compliance Assurance Agreement by the end of July 2003.
2. Ecology, EPA and the Local Air Agencies will include in the new Compliance Assurance Agreement specific language that clarifies their authorities, roles, and responsibilities in PSD enforcement. This will include clarification of responsibility to enforce the failure to obtain a permit.
3. EPA will meet with Ecology and Local Air Agency program managers regarding the results of EPA's enforcement program review. These will include discussion of the program strengths, weaknesses, and any recommended corrective measures. (by September 2003).
4. EPA will work with Ecology and Local Air compliance programs to follow-up with any action plans developed as a result of EPA's FY03 compliance program review. The action plans will be used to address any areas for improvement identified by the program review.
5. EPA, Ecology, and Local Air Agencies will carry out their respective obligations under the Compliance Assurance Agreement (Title V, Synthetic Minors, etc).

### Delegated Programs at Non-Title 5 Sources

6. Ecology and the Local Air Agencies will adequately implement as many delegated programs as they can. When adequate resources for full implementation are not available, relative priorities will be established in collaborative planning with EPA, and it is understood that those priorities will likely vary from agency to agency. State and local agencies may submit their prioritization plans to EPA by October 1st. EPA feedback will be prompt (the collaborative planning meetings are appropriate places for this exchange).
7. EPA, Ecology, and the Local Air Agencies will periodically review and discuss compliance and enforcement program trends in federally delegated programs. EPA will take the lead in identifying existing sources of data that will inform our periodic review (the collaborative planning meetings are appropriate places for this exchange).
8. EPA will share their enforcement strategy for non-delegable federal standards (such as architectural coatings, sulfur in diesel fuel, etc) and EPA will seek feedback from affected state and local agencies on the highest priorities for the state of Washington.



### Minor Sources and Area Sources

9. Ecology and Local Air Agencies are encouraged to share information about their minor source and area source programs and priorities (the collaborative planning meetings are appropriate places for this exchange). EPA agrees that minor and area sources programs are crucial to achieving and maintaining clean air, and acknowledges the need for state and local agencies to prioritize limited resources for maximum environmental benefit.

### **Ongoing Activities**

1. For sources and activities that are subject to the Compliance Assurance Agreement, Ecology and local agencies will conduct their compliance programs in accordance with that Agreement as it exists during the term of this PPA.
2. Violations determined to be high priority violations will be resolved in accordance with the EPA “Timely and Appropriate Enforcement response guidance for HPVs,” and as outlined in the Compliance Assurance Agreement.
3. Ecology, the locals and EPA will continue periodic (approximately bi-monthly) conference calls to discuss high priority violations as well as policy and strategy issues.
4. EPA is responsible for conducting compliance assistance and enforcement activities in Indian Country.
5. EPA is responsible for non-delegable standards, activities, and programs (for example, chlorofluorocarbons) statewide, including complaint response, inspections, and priority enforcement actions.
6. EPA will continue to perform direct inspection and enforcement work with respect to national priorities (in accordance with the Compliance Assurance Agreement) or as requested by state or local agencies.

### **Reporting**

1. All agencies will fulfill reporting requirements contained in the Compliance Assurance Agreement.
2. To the extent possible, and as time allows, all agencies will attempt to quantify emission reductions achieved through enforcement actions

against High Priority Violators (HPVs). One approach might be to use EPA's case conclusion worksheet.

3. Delegated agencies will report asbestos activity to National Asbestos Reporting System (NARS) quarterly.
4. Program managers of Ecology and the Local Air Agencies will ensure the accurate and complete reporting of AFS data and will ensure that the reports out of AFS are accurate for their agencies.
5. Implementation of EPA's Stationary Source Compliance Monitoring Strategy (April 2001) has resulted in some additional data elements for reporting. This will be discussed during collaborative planning and it is fully expected that tradeoffs will need to be made if additional reporting is required.

## **SECTION SEVEN HAZARDOUS WASTE AND TOXICS REDUCTION PROGRAM**

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### **DESCRIPTION**

Washington's Hazardous Waste Program implements the federal Resource Conservation and Recovery Act (RCRA), as authorized by EPA, and the Washington state Dangerous Waste Regulations. The purpose of the Program is to assure that generators and processors of hazardous waste manage their waste in a manner that minimizes the risk of releases of hazardous materials to air, water, and land. This is accomplished by assuring compliance with the hazardous waste regulations and by encouraging waste minimization practices. The Program also integrates into administering the hazardous waste regulations all appropriate provisions of the federal Endangered Species Act and any other relevant federal laws and regulations. This Environmental Performance Partnership Agreement (PPA) will adhere to the state's authorized program. It does not restrict EPA's oversight authority for state program activities that are part of the federal program, does not establish privity between EPA and the state, does not restrict EPA's independent enforcement authority and does not expand EPA's oversight authority to state-only requirements outside of the federal program. No waiver of sovereign immunity is implied or assumed by this agreement.

Work to be done by Ecology will be performed by the Hazardous Waste and Toxics Reduction Program (HWTR), the Industrial Section and the Nuclear Waste Program. Ecology will collect and track all information needed to report on all indicators and performance measures. The Region 10 RCRA Program in the Office of Waste and Chemicals Management (OWCM) will perform EPA work. This agreement is a two-year agreement for the state FY 2004 and 2005. Activity commitments and levels of effort are presented for a one-year time frame. The commitments will be evaluated at the end of the first year and adjusted or amended as necessary to carry through the second year.

## **PROGRAM GOALS AND PRIORITIES**

The EPA Region 10 RCRA Program and the Ecology HWTR Program will strive to achieve the following program goals and priorities in Washington State in FY 2004-2005:

1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;
2. Continue to improve the Dangerous Waste Regulations and maintain an authorized program;
3. Work to reduce the production of hazardous waste in the state by at least 2% annually (currently, about 5 million pounds/year);
4. Accomplish safe, timely permitting, closure and corrective action;
5. Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success;
6. Work together to reduce duplicative efforts and streamline EPA's review and approval of state actions when necessary.

## **ENVIRONMENTAL AND PERFORMANCE INDICATORS**

During FY 2004-2005, Core Performance Measures will be used to assess the success of the RCRA Program. Data for these measures is available

through the Biennial Reporting System, the Toxics Release Inventory and the EPA national database for RCRA, called RCRAInfo.

The Core Performance Measures that Ecology and EPA will use for assessing FY 2004-2005 RCRA Program performance are:

1. Pounds per year of hazardous waste generated per facility (sorted by SIC and ZIP code) from RCRAInfo. See goals 1 through 5.
2. Pounds per year of toxic chemicals released to air, land, and water as measured by the Toxics Release Inventory (TRI). See goals 1 through 5.
3. Number and percentage of sites subject to RCRA corrective action that have (a) human exposures under control and (b) ground water contamination under control, as measured in the RCRAInfo database. See goals 1, 2, 4 and 5.
4. Percent of high and medium priority facilities subject to RCRA corrective action where a final remedy or interim measure is in place for any portion of the facility. The data elements for final remedy are CA400, CA500, CA550 and the data elements for interim measures are CA600 and CA650 in the RCRAInfo database. See goals 1, 2, 4 and 5.
5. Percent of facilities that require either an operating or post closure permit where there are approved controls in place, as measured in the RCRAInfo database. See goals 1 through 5.
6. Percent incidence of "Environmental Threats" per inspection by calendar year. Analysis will be done on data in the RCRAInfo database. See goals 1 and 5.
7. Rates of significant non-compliance and percentage of significant non-compliers returned to compliance. Data is in RCRAInfo database. See goals 1 and 5.
8. Number of enforcement actions taken. Data is in RCRAInfo database. See goals 1 and 5.

Ecology's responsibility for core measures reporting will be to assure that the data in RCRAInfo is accurate and up to date. EPA Region 10 will be responsible for extracting and using the data to report to EPA Headquarters.

## **ACTIVITIES TO BE PERFORMED BY ECOLOGY AND EPA**

This agreement will serve as the grant workplan for both the FY 2004 and the FY 2005 EPA RCRA grant to Ecology. The grant period will be from July 1 through the following June 30 for each grant year. Ecology and EPA will conduct the activities enumerated in the sections below in FY 2004. At the end of that year, EPA and Ecology will make whatever adjustments or additions are needed to carry the activities through FY 2005. Progress in completing these activities will be reported in an end-of-year report for each year. These reports will include a narrative explaining progress in completing the agreed upon activities and tracking data concerning these activities. End-of-year reports will be due August 15 of each year. EPA will prepare similar reports regarding its commitments. Ecology agrees to continue reporting all appropriate data in the national databases (RCRAInfo, BRS, TRI, etc.).

The level of effort for each Ecology activity specified in the sections below identifies the number of Ecology FTEs funded by federal grant dollars and the number of Ecology FTEs funded by state matching funds. The “level of effort” sections for EPA identify EPA resources devoted to RCRA work in Washington. The details of Ecology RCRA commitments are found in Ecology's work plan for the HWTR Program (which includes the Nuclear Waste Program's and Industrial Section's RCRA commitments) that is incorporated as part of this agreement.

Ecology has developed a strategy for addressing Persistent, Bioaccumulative, and Toxic (PBT) chemicals. EPA will coordinate with Ecology and provide information on EPA's PBT strategy. When possible, EPA will provide support for Ecology's strategy beyond the RCRA grant. (Funding for this project is separate from the FY 2004-2005 PPA RCRA grant.) The overall goal of this strategy is to eliminate or significantly reduce the amount of PBT chemicals in use in industry and thereby reduce their impact on the environment. Specific goals and measures will be established as part of a project workplan.

Ecology has recently begun a long term project called “Beyond Waste”. The Beyond Waste project has been created on behalf of both the Hazardous Waste and Toxics Reduction Program and the Solid Waste and Financial Assistance Program. The project's long term aim is to systematically eliminate toxic substances from the environment, while properly handling existing hazardous and solid wastes. State law (RCW 70.105 and 70.95) requires Ecology to develop statewide solid- and hazardous-waste plans and to update them regularly; these plans can serve as a vehicle through which “Beyond Waste” objectives can be pursued.

What it means to move "beyond waste" is captured in the shared vision statement for both plans: that we can transition to a society that views wastes as inefficient uses of resources and believes that most wastes can be eliminated. Eliminating wastes will contribute to environmental, economic and social vitality. Moving beyond waste to re-use and reduction of materials will take many years. In the short-term, the plans should position Washington to be more effective in reducing wastes through revised policies and programs, providing better service to the public, business, and government. The Beyond Waste project will help us integrate efforts to protect the environment, human health and our state's economic development.

## **INFORMATION MANAGEMENT**

In addition to the tasks mentioned in this document, EPA and Ecology have a RCRAInfo Letter of Agreement which further specifies the process for resolving any disagreements between Ecology and EPA relevant to maintenance of, and data entry into, the RCRAInfo database system.

### **As part of this agreement Ecology will:**

1. Input all hazardous waste inspections, enforcement actions, return to compliance information, corrective action milestones, closure/post-closure milestones, permit milestones and any other data necessary to track indicators 3, 4, 5, 6, 7 and 8 into the EPA national RCRA data system (RCRAInfo). Ecology will establish and maintain a system to assure that each inspector, permit writer, and corrective action/closure lead will review the data for each facility they are responsible for on a monthly basis and submit revisions for data input. At no time should the data for any facility be more than two months behind. See goal 5 and indicators 3, 4, 5 and 6. See work plan section 6B.

**Level of effort in FTE: 1.2 (grant) 0.4 (match) Total 1.6**

2. Collect and process annual reports. Information will be provided to EPA for the National Biennial Report System (BRS) as agreed in the Program Authorization Memorandum of Agreement (MOA). Ecology will also maintain the hazardous waste handler module, and will translate Handler module information from HWIMSY and Facility Site Information system for all required data elements necessary for good reporting (this includes most or all of RCRAInfo, HQ and US data elements) (This activity includes the maintenance of the HWIMSY database). See goal 1, 2, 3 and 5 and indicators 1 and 2. See work plan section 6A.

**Level of effort in FTE: 1.7(grant) .6(match) Total 2.3**

3. Work with Region 10 to phase in the use of Ecology's Event Tracker tool as a data entry portal for RCRAInfo. The Letter of Agreement, mentioned above, will provide additional details of this phased in approach.

**EPA will:**

1. Assist in maintaining EPA national RCRAInfo database and keeping data current including participation in the RCRAInfo workgroup. This involves a monthly review of data by site managers for their sites and submitting revisions for data input. EPA will be responsible for collecting and inputting data regarding activity on Indian lands.

**Level of effort in FTE: 0.5**

2. Give Ecology prior notice of EPA Region 10's intent to analyze data from the EPA national database for RCRA and provide an opportunity for Ecology review of EPA's findings prior to presenting the findings outside of the Region 10 RCRA program. This does not include similar use of publicly available data by entities outside of the control of the EPA Region 10 RCRA program.

## **COMPLIANCE ASSURANCE**

**Ecology will:**

1. Conduct statutorily mandated and state priority inspections, including compliance inspections at large quantity generators (LQGs); the number of LQG inspections will attempt to reach levels consistent with national goals established by EPA. Data will be input into RCRAInfo and quality assured monthly. Should Ecology decide not to conduct a federally mandated inspection, it will immediately notify EPA in writing of this decision along with justification for this decision. Ecology and EPA have agreed that because they are not actively treating, storing, or disposing of hazardous waste, the following interim permitted facilities do not need to be inspected on an every-other-year basis: Boeing Plant 2; Boeing Development Center; Boeing Renton facility. These facilities will still be subject to inspection as hazardous waste generators on a schedule to be determined by Ecology. See goals 1, 2, 3 and 5 and indicators 1, 2 and 6. See work plan section 1A.

**Level of effort in FTE: 4.5(grant) 1.4(match) Total 5.9**

2. Address violations and compliance issues in a manner consistent with the Ecology Hazardous Waste and Toxics Reduction Program Compliance Assurance Policy and the Ecology/EPA Compliance Assurance Agreement

including the addendum to address HB1010 (orders, Notices of Corrections (NOC's), compliance letters, and penalties). Data including Significant Non-Compliance (SNC's) will be input into RCRAInfo and quality assured monthly. See goals 1, 2 and 4 and indicators 1, 2, 4 and 6. See work plan section 5.

**Level of effort in FTE: 3.8(grant) 1.2 (match) Total 5.0**

**EPA will:**

1. Coordinate with Ecology on compliance issues; perform the hazardous waste portion of multi-media inspections unless otherwise agreed to by Ecology; and, implement compliance activities in Indian Country in cooperation with the various tribal governments. See goals 1, 3 and 4 and indicators 1, 2, 6 and 7.

**Level of effort in FTE: 1.0**

## **TECHNICAL ASSISTANCE**

Ecology will conduct technical assistance for compliance, waste minimization and pollution prevention through site visits, answering phone calls, outreach publications and workshops. See goals 1, 3, 4 and 5 and indicators 1 through 6. See work plan sections IB-IV.

**Level of effort in FTE: 2.2(grant) .7(match) Total 2.9**

EPA will provide technical assistance to Ecology including work at Hanford and ATG. Hanford work will include vitrification plant technical and permitting work, as well as general technical and regulatory consultation. EPA will provide technical support for Philip Georgetown closure and corrective action work, as well as technical support at various other facilities. See goals 1, 3, 4 and 5 and indicators 1 through 5.

**Level of effort in FTE: 1.0**

## **CLOSURE and CORRECTIVE ACTION**

EPA and Ecology are working toward meeting the goals set for 2005 by the Government Performance Results Act (GPRA). This act establishes goals for both permitting and corrective action under RCRA. The goal for corrective action is that by 2005, 95% of high-priority RCRA facilities will have human exposure to toxins controlled and 70% of these facilities will have toxic releases to groundwater controlled. EPA and Ecology will implement the site transition plans and schedules for each corrective action and closure site that requires a transfer of the lead role from EPA to Ecology. Among other issues, each transition plan addresses: termination of any existing 3008h order at transition; communication protocol between



Ecology, EPA and the facility; and, what, if any, contract funding is available.

Ecology will invest the designated level of effort in making progress on completing closure of regulated units and to make progress towards achieving the GPRA 2005 goals for corrective action at Solid Waste Management Units (SWMUs). Corrective action will be conducted in accordance with the EPA RCRA cleanup reforms of July 1999 and January 2001. EPA will perform timely equivalency determinations for Interim Status closures. Site-specific priorities and expectations for this work are found in the Ecology HWTR program work plan that is part of this agreement. Should conditions change requiring changes to the work plan, they will be negotiated with EPA and agreed-to revisions will be made. These negotiations will be conducted through site meetings or facility-specific meetings. The meetings will be documented and agreed to changes will be signed off on by staff from both agencies.

Data including RCRAInfo measures CA725 (ground water releases controlled) and CA750 (human exposure controlled) will be input into RCRAInfo and quality assured monthly. Every six months Ecology will keep EPA informed on changes in expectations for reaching the 2005 goals for the CA725 and CA750 measures. In August of each year, Ecology will update and submit to EPA "Documentation of Environmental Indicator Determination" forms for each Corrective Action site. See goals 2, 4, 5 and 6 and indicators 3, 4 and 5. See work plan section 4A and 4C.

**Level of effort in FTE: 7.9(grant) 2.6(match) Total 10.5**

EPA will conduct corrective action and closure work at Northwest Enviroservices, Rhone Poulenc, Tecnal (Northwest Petrochemical), Boeing Plant II, Reichhold, and J.H. Baxter. EPA will terminate existing 3008(h) orders upon issuance of a final permit that addresses corrective action either directly in the permit conditions or through incorporation into the permit by reference of a state issued cleanup order. EPA will conduct equivalency determinations when necessary for closure of interim status units.

See goals 4 and 5 and indicators 3, 4 and 5.

**Level of effort in FTE: 1.6**

## **PERMITTING**

EPA and Ecology will be striving to meet the 2005 goals for permitting established by GPRA. The specific goal for permitting is that by 2005 at least 85% of hazardous waste management facilities will have controls in place to prevent dangerous releases to air, soil, surface water and groundwater. To this end Ecology will invest the designated level of

effort in ensuring environmental protection at TSD facilities. Site-specific priorities, tools and expectations will be negotiated with EPA, documented in brief individual workplans, and revised throughout the year as situations change. These negotiations will be conducted through TSD Managers Group meetings and facility specific discussions. Changes agreed to in these negotiations will be documented and signed off by staff from both agencies. EPA and Ecology have agreed to streamline the permitting process for RCRA corrective action facilities that have no operating RCRA regulated units. MTCA orders ( the state cleanup authority or Model Toxics Control Act) will be used to satisfy corrective action requirements. A short permit shell (framework permit or “Permit Lite”) will be issued which will incorporate by reference the MTCA order as a permit condition. This process will eliminate duplication of effort. It will allow the use of the MTCA process which is generally faster, may be more stringent and is familiar to the business community in Washington. A schedule of permits to be completed with this process will be included in the work plan which is included by reference in this PPA. Data for milestones achieved will be input into RCRAInfo and quality assured monthly.

See indicators 1,3,4,5 and 6. See work plan sections 4D, 4F, 4E, and 4g.  
**Level of effort in FTE: 2.3(grant) .9 (match) Total 3.2**

## **AUTHORIZATION**

Ecology will maintain an authorized program in compliance with federal requirements found at 40 CFR Part 271.21. See goals 1 through 6 and indicators 1 through 5. See work plan section 2.

Level of effort in FTE: 1.8(grant) .6(match) Total 2.4

EPA will complete Federal codification of Ecology’s authorized hazardous waste program.

Both EPA and Ecology will begin to revise and update the RCRA Memorandum of Understanding (MOA).

See goals 1 through 6 and indicators 1 through 5.

**Level of effort in FTE: 0.4**

## **EPA COORDINATION and CONTRACTS**

### **Program Coordination**

The EPA State coordinator in the EPA regional office and the RCRA coordinator position in the EPA operations office do general program

coordination. This work includes joint inspections, oversight work, grant administration, planning, training and assuring open communication between Ecology and EPA.

See goals 1, 2, 4, 5 and 6 and indicators 1 through 8.

**Level of effort in FTE: 0.9**

### **Contract Work**

This includes contract work funded by EPA to assist Ecology in implementing the waste program. Included in this work is work relevant to RCRA corrective action and enforcement. See goals 1 4 and indicators 3, 4 and 5.

**Level of effort in FTE: 0.5**

## **FTE Summary**

**NOTE: All figures in the FTE Summary below are for FY2004 only; figures are not yet available for FY2005.**

The total HWTR FTEs covered by this agreement is 33.8 (25.4 funded by the grant and 8.4 by state match). For the purpose of this agreement 1 FTE is equal to \$75,661. The total grant funding is \$2,557,333 (\$1,918,000 federal and \$639,333 state match). The total federal resources involved in implementing the Program in Washington are 25.4 FTEs.

## **SECTION EIGHT NUCLEAR WASTE PROGRAM**

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### **INTRODUCTION**

The major focus of the Nuclear Waste Program's (NWP) RCRA activities is related to the cleanup of the U. S. Department of Energy's Hanford Nuclear Reservation. The Nuclear Waste Program also is responsible for RCRA oversight at three other facilities that handle mixed waste

(radioactive and hazardous). When the Nuclear Waste Program's FY2004 detailed workplan is completed (sometime this Spring), it will be included here by reference.

Following are the general guidelines being used by the Nuclear Waste Program in developing RCRA implementation under the FY2003/04 Performance Partnership Agreement.

## **MAJOR FOCUS OF COMPLIANCE INSPECTIONS**

Details for specific inspections and inspection priorities are still being planned and negotiated with EPA. A preliminary list of inspections has already been developed through meetings with all project managers and with the compliance group. Dates and priorities for most inspections are not yet been finally determined, but it is recognized that some inspections are time-critical (i.e. immediately after a TPA submittal or sampling event) and some are not.

As soon as a complete list of proposed RCRA inspections is finalized, it will be submitted to EPA for approval. Planned inspections include continued focus on Hanford's single shell and double shell tanks.

PPA compliance inspection planning for Fiscal Year 2004 will also focus on compliance with Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) requirements and basic RCRA interim status and generator requirements. Typically, regulatory inspections against TPA requirements have been intermittent; however, a number of TPA inspections are planned for FY 2004 to determine completion of TPA milestone deliverables which reflects an increased focus by the Nuclear Waste Program's compliance group on compliance with the TPA. The TSD inspections listed in the PPA table reflects this emphasis.

Basic RCRA requirements for interim status facilities and hazardous waste generators remain a concern at Hanford. Therefore a number of generator and TSD inspections are planned focusing on basic RCRA requirements such as designation, solid waste determinations and container management. TSD and generator inspections listed in the PPA table reflect this emphasis.

## **MAJOR FOCUS OF PERMITTING WORK**

The primary focus for RCRA permitting will be the re-issuance of the Hanford site-wide RCRA permit in 2004. The Tank Waste Vitrification permit, which was issued in 2002, continues to be a major activity as permit modifications are processed as the facility design is completed. EPA has and will continue to provide technical and programmatic support for this effort. Permitting work for the Canister Storage Building and Immobilized Low Activity Waste Trench is currently under discussion and may be postponed to be more in line with the current schedule for construction and pending changes, currently under discussion, to the TPA milestones. The RCRA staff has prioritized their focus on beginning the initial reviews of the Double-Shell Tank permit; a final certification date for the Part B application is scheduled for submittal to Ecology in August 2003. Work is underway on resolving deficiencies with the Part B permit application for the Low Level Burial Grounds.

Delays in the completion of the Department of Energy's Environmental Impact Statement for disposal of waste at Hanford have contributed to delays in issuance on several completed waste facility permits. Final issuance of the Central Waste Complex, the Waste Receiving and Packaging facility, and the 222-S Laboratory as final operating units has been put on hold. These permits are complete and ready to be issued once the EIS and related SEPA work is completed.

The NWP continues to work on permitting of the Puget Sound Naval Shipyard. Much of the permitting work has been completed, and a schedule is being developed for possible completion of the permitting process during the next year.

The ATG facility has an existing operating permit; however, additional activities will require a trial burn before starting full-scale operations. The future of this facility, which filed for Chapter 11 protection under the bankruptcy regulations, remains unclear. Continued EPA technical and legal support will be needed to help Ecology and the Washington Department of Health to respond to potential changes in ownership and activities at the facility.

## **INFORMATION MANAGEMENT**

The Nuclear Waste Program will input into the EPA national RCRA data system (RCRAInfo) all hazardous waste inspections, enforcement actions, return to compliance information, corrective action milestones, closure/post-closure milestones, permit milestones and any other data necessary to track Nuclear Waste Program work. Ecology will establish and maintain a system to assure that each inspector, permit writer, and

corrective action/closure lead will review the data for each facility they are responsible for on a monthly basis and submit revisions for data input. At no time should the data for any facility be more than two months behind.

## **SECTION NINE**

### **WATER QUALITY PROGRAM**

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#### **INTRODUCTION**

The Washington State Department of Ecology administers the majority of federal Clean Water Act based programs throughout the State. EPA's role is to oversee the implementation of State-authorized programs, provide technical and analytical support for State-authorized programs, and to directly implement non-authorized programs, in most cases with State assistance. This PPA reflects the mutual understandings reached between Ecology and EPA for program implementation and extent of oversight.

The objectives and activities listed in this document cover many aspects of water quality protection in Washington State. However, only a subset of these activities is funded by EPA grants. One of EPA's grants to Ecology is the Performance Partnership Grant (PPG) which is provided in accordance with Section 106 of the CWA. This PPA will also serve as the scope of work for PPG funds provided to Ecology. The specific activities in this workplan which will be funded by the PPG have been identified.

#### **KEY TOOLS**

Ecology and EPA have identified the following three key tools which should be used to the extent practical in all the work conducted pursuant to this Agreement: Ecology and EPA should collaborate on and co-invest in these tools to improve the success of achieving our goal and objectives.

**Watershed Management:** One of the key tools to managing water quality is the use of a watershed based approach when possible. Ecology and EPA will use available watershed planning tools such as integrating work with Washington's Watershed Planning Act (2514 process), participating in and implementing the Puget Sound Action Team's biennial workplan, and supporting Puget Sound transboundary work

through the EPA/Environment Canada Statement of Cooperation, and the BC-Washington Environmental Cooperation Council.

**Information Management:** Information flow between Ecology and EPA is an important function so that both agencies can coordinate and meet their clean water responsibilities. It is important that information flow be effective and efficient. Ecology and EPA are committed to improving our information management systems such as completing the interface between Ecology's Water Permit Lifecycle System (WPLCS) and EPA's Permit Compliance System (PCS). Success in this area will increase efficiency, data quality, and the timeliness of our information sharing. Furthermore, we should enhance our ability to explain and share water quality data with other stakeholders. This information is needed to accurately define and prioritize water quality problems along with cost-effective solutions.

**Customer Service:** In order to best protect water quality, Ecology and EPA must work collaboratively with the citizens and businesses in Washington. Ecology and EPA are committed to support and assist them in promoting the environmental and economic well-being of the state. Towards this effort, Ecology and EPA will strive to make timely and predictable decisions and develop requirements that are clear and easily available. Ecology and EPA must also demonstrate, through performance measures or other means, the value of our agencies' work to assist communities solve their water quality problems.

## **ENVIRONMENTAL GOAL FOR WATER QUALITY PROTECTION**

Ecology and EPA agree to the following overall goal:

Protect, preserve, and enhance Washington's surface and ground water quality, and promote the wise management of our water for the benefit of current and future generations and the natural environment.

# OBJECTIVES, ACTIVITIES, and MEASURES

## 1. Nonpoint Source Pollution Control

Ecology Contact: Bill Hashim (360) 407-6551 bhas461@ecy.wa.gov

EPA Contact: Krista Mendelman (206) 553-1571

Mendelman.Krista@epamail.epa.gov

### Objectives:

- Programs are designed to prevent nonpoint source pollution, hydrologic modification, and aquatic habitat loss.
- Programs are designed to clean up nonpoint source pollution, remedy hydrologic modification, and restore aquatic habitat loss.
- Financial assistance is provided to water quality partners and is targeted to the highest environmental needs.

### Activities and Measures

- 1A. Ecology will implement the Ecology actions identified in Table 9.1 of Water Quality Management Plan to Control Nonpoint Source Pollution depending on available funds. Ecology will submit an annual end-of-year report by February 15 of each year and EPA will review and provide a satisfactory progress determination to Ecology by April 15 of each year. EPA will use these reports as the basis for determining continued eligibility for future 319 grants.
- 1B. Ecology and EPA will submit and award the CWA 319 grant on a biennial basis rather than an annual basis, Ecology will submit a grant proposal no later than March 31 and EPA will process the grant and provide funding no later than July 1 of that same year.
- 1C. Ecology will submit semi-annual 319 grant progress reports by August 31 and February 15 of each year which cover the previous half of the state fiscal year.
- 1D. EPA will complete the CZARA approval review by July 15, 2003. EPA and NOAA will then provide for public review and comment on our draft findings, determinations, and recommendations from this review prior to completing program determinations and decisions.



- 1E. EPA and Ecology will meet following completion of this program approval review to identify any outstanding issues and discuss plans for implementing key program elements.
- 1F Ecology and EPA will continue to participate on Forests and Fish committees and workgroups, particularly the Policy Committee and CMER. Ecology and EPA will continue to work with DNR and other agencies on federal assurances associated with the Forests & Fish Agreement, including ESA assurances and CWA compliance.

### **Resources**

Total Ecology FTEs: 21

Ecology FTEs funded by PPG: 5

Activities funded by PPG: 1A

## **2. Point Source Pollution Control**

Ecology Contact: Melodie Selby (360) 407-6460

[msel461@ecy.wa.gov](mailto:msel461@ecy.wa.gov)

EPA Contact: Bob Robichaud (Permits) (206) 553-1448

[Robichaud.Robert@epa.gov](mailto:Robichaud.Robert@epa.gov) and Kim Ogle (Compliance) (206) 553-0955 [Ogle.Kimberly@epa.gov](mailto:Ogle.Kimberly@epa.gov)

### **Objectives:**

- All discharge permits are current, protect water quality, human health and aquatic habitat; and include water conservation and pollution prevention measures.
- All discharges are in compliance with permits, water quality standards, BMPs, and other requirements to protect Washington's waters.
- All discharge permits implement WLA from EPA approved TMDLs
- Water quality laws are firmly and fairly enforced to ensure compliance.
- Requirements and procedures are clear and predictable
- The NPDES program is implemented effectively and in accordance with the current Memorandum of Agreement and Compliance Assurance Agreement.

## **Activities and Measures**

### ***Pretreatment***

Ecology Contact: Dave Knight (360) 407-6277

dakn461@ecy.wa.gov

EPA Contact: Michael Le (206) 553-1099 Le.Michael@epa.gov

- 2A. Ecology will conduct an audit of each delegated pretreatment program at least every 5 years and a visit (inspection or audit) of each pretreatment POTW at least every 2 years.
- 2B. Ecology will forward copies of compliance inspection and audit reports (EPA Form 3560-3) for Pretreatment POTWs as soon as they are completed to: Michael Le, Regional Pretreatment Coordinator, EPA Region 10, NPDES Permits Unit (OW-130), 1200 Sixth Avenue, Seattle, WA 98101 or fax to his attention at (206) 553-1280.
- 2C. Ecology will evaluate compliance status of all approved programs for significant non-compliance (SNC) and report the facility names and permit numbers of POTWs with approved pretreatment programs in SNC (in accordance with the violation criteria established for Pretreatment Program SNC) to the Region 10 Pretreatment Coordinator by July 31 of each year. The report will cover the previous state fiscal year.
- 2D. Ecology will report the facility names and permit numbers of Categorical Industrial Users (IUs) discharging to POTWs without approved pretreatment programs; and the Categorical IUs of that universe that have been determined to be in SNC to the Region 10 Pretreatment Coordinator by July 31 of each year. The report will cover the previous state fiscal year.
- 2E. Ecology and EPA will support and participate in the National Pretreatment Conference in November 2003.
- 2F. EPA will seek additional grant funds to support an Ecology-sponsored pretreatment training event for Washington State.

### **Resources**

Total Ecology FTEs: 2

Ecology FTEs funded by PPG: 0

Activities funded by PPG: None

***Compliance and Enforcement***

Ecology Contact: Melodie Selby (360) 407-6460

msel461@ecy.wa.gov

EPA Contact: Chris Cora (206) 553-1148

Cora.Christopher@epa.gov

- 2G. Ecology will continue its inspection program of major and minor facilities.
- 2H. Ecology will forward copies of compliance inspection reports (EPA Form 3560-3) for major facilities as they are completed to: Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101 or fax to her attention at (206) 553-1280.
- 2I. Ecology will provide copies of enforcement actions to major facilities as they are completed to: Chris Cora, State Oversight Contact, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101 or fax to his attention at (206) 553-1280.
- 2J. Ecology will provide an annual report of state activity for NPDES Minors to EPA for each calendar year by January 31 of each year. The report shall be forwarded to: Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101.
- 2K. Ecology will report to Region 10 the justifications for facilities being in SNC. The justifications will be included in the Exceptions list to EPA Headquarters. All valid SNC violations must be addressed by a formal enforcement action, or a written explanation for no enforcement action or alternative action. The justifications for being in SNC will be forwarded in accordance to the schedule below to: Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101, faxed to her attention at (206) 553-1280, or emailed to Brown.Jeannine@epa.gov.

**See QNCR/Exceptions List Reporting Schedule table on next page.**

<b>QNCR/Exceptions List Reporting Schedule</b>			
<b>QNCR Period</b>	<b>QNCR Due to HQ</b>	<b>Justifications Due to Region</b>	<b>Exceptions List Due to HQ</b>
Jul-Sep	December 15	1 <sup>st</sup> week of January	mid-January
Oct-Dec	March 15	1 <sup>st</sup> week of April	mid-April
Jan-Mar	June 15	1 <sup>st</sup> week of July	mid-July
Apr-Jun	September 15	1 <sup>st</sup> week of October	mid-October

- 2L. Ecology will manually report the following necessary inspection data for NPDES Majors, NPDES Minors, and Pretreatment facilities to Region 10 the first week of April and first week of October for inclusion in the Regions manual report(s) to EPA headquarters. The report(s) will be mailed to the attention of Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101, faxed to her attention at (206)553-1280, or e-mailed to Brown.Jeannine@epa.gov.

The April report will include: the total number of state inspections conducted July-December (first two quarters of the Inspection Year), and a facility specific list providing the NPDES number, major/minor indicator, facility name, type of inspection, and date of inspection.

The October report will include: the total number of state inspections conducted July-June (cumulative for the full Inspection Year), and a facility specific list providing the NPDES number, major/minor indicator, facility name, type of inspection, and date of inspection.

Ecology will ensure that the above reports will reflect all state inspection activity for the period indicated (not separate reports from the various State Regional Offices).

- 2M. Ecology will manually report the total number of NPDES State Judicial Referrals to the State Attorney General for the period October-September (full Federal/State Fiscal Year) for NPDES Majors and Minors to Region 10 the first week of October for inclusion in the Regions manual report to EPA headquarters. The report should be mailed to the attention of Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101, faxed to her attention at (206)553-1280, or e-mailed to Brown.Jeannine@epa.gov.

- 2N. Ecology will manually report the following necessary enforcement action activity for NPDES Majors and NPDES Minors to Region 10 by the second week of April and second week of October for inclusion in the Regions manual report(s) to EPA headquarters. The report(s) will be mailed to the attention of Jeannine Brown, Regional PCS Coordinator, EPA Region 10, NPDES Compliance Unit (OW-133), 1200 Sixth Avenue, Seattle, WA 98101, or faxed to her attention at (206) 553-1280.

The April report will include: the total number of state enforcement actions issued in October-March (first two quarters of the Federal/State Fiscal Year), and a facility specific list providing the NPDES number, major/minor indicator, facility name, type of enforcement action, case docket number, and enforcement action date.

The October report will include: the total number of state enforcement actions issued in October-September (cumulative for the full Federal/State Fiscal Year), and a facility specific list providing the NPDES number, major/minor indicator, facility name, type of enforcement action, case docket number, and enforcement action date.

Ecology will ensure that the above reports will reflect all state enforcement activity for the period indicated (not separate reports from the various State Regional Offices).

- 2O. The information to be submitted in 2H through 2N will no longer be provided in paper copy to EPA once the data is available electronically through the WPLCS/PCS database link.

### **Resources**

Total Ecology FTEs: 15

Ecology FTEs funded by PPG: 7

Activities funded by PPG: 2G through 2N

### ***Permits***

Ecology Contact: Melodie Selby (360) 407-6460

msel461@ecy.wa.gov

EPA Contact: Kristine Koch (206) 553-6705

Koch.Kristine@epa.gov

- 2P. Ecology will reduce the NPDES backlog to 10% by December 2004. Ecology will submit a draft “backlog reduction plan” to

EPA by May 1 of each year which covers the upcoming state fiscal year. Ecology and EPA will collaborate on finalization of the plan which is expected by July 1 of each year. At a minimum, the plan will contain the list of NPDES permits to be issued/re-issued along with key milestone dates (such as public notice, permit issuance dates). It is expected that the SFY 2004 plan will be finalized prior to approval of this PPA. EPA will lead a team to develop, in coordination with Ecology and the Services, a strategy to determine the priorities for Section 7 consultation of major CWA programs including key permits for review.

- 2Q. EPA will review NPDES permits to be issued by Ecology in accordance with the 1988 MOU between Ecology and EPA. EPA will develop criteria in conjunction with Ecology to determine which permits they will review. The criteria will be developed during preparation of the backlog reduction plan. The final backlog reduction plan will identify which permits EPA will review. EPA will also work with the Services and Ecology during this period to identify permits for which consultation will occur.
- 2R. Ecology will provide support for the transfer of the dairy program to the Department of Agriculture. This support includes: representing Ecology on initial discussions, providing data and training for the Department of Agriculture, helping to develop the transition MOU, and serving on the Agriculture Transition Team. Ecology will also support the Department of Agriculture on their development of a CAFO program and delegation of NPDES authority.
- 2S. Ecology will participate in CWA 401 activities including FERC relicensing and dam oversight.
- 2T. Ecology commits to implementing an electronic Discharge Monitoring Report system (eDMR) by June 2005 that allows willing, individual NPDES permittees to enter their DMR data using a web-based tool.
- 2U. EPA will provide a list of items that Ecology should report regarding the NPDES permit program by July 1 of each year along with the due dates for each item. Upon review of the list, Ecology will make commitments on those reporting requirements. This information will be fed into the national program reporting system.
- 2V. Ecology and EPA commit to completing the WPLCS/PCS data link to improve the sharing of information between the agencies.

2W. EPA will work with Ecology to develop a possible permits and enforcement program evaluation.

**Resources**

Total Ecology FTEs: 34

Ecology FTEs funded by PPG: 7

Activities funded by PPG: 2P and 2S

**3. Water Cleanup Plans (TMDLs) and Standards**

Ecology Contact: Melissa Gildersleeve (360) 407-6461

mgil461@ecy.wa.gov

EPA Contact: Laurie Mann (206) 553-1583 mann.laurie@epa.gov

**Objectives:**

- Water cleanup plans (TMDLs) are scheduled, completed, and implemented.
- Implement the 1998 Settlement Agreement and MOA regarding section 303(d) of the CWA.
- Develop, maintain, and implement surface water quality standards that protect beneficial uses.
- Comprehensively assess water bodies in Washington to assign categories according to water quality, including the 303(d) list.

**Activities and Measures**

***Water Cleanup Plans (TMDLs)***

- 3A. Ecology will complete and submit for approval 50 TMDLs by June 30, 2004; and 50 TMDLs by June 30, 2005.
- 3B. Ecology will implement and refine the April 2001 TMDL Workload Assessment.
- 3C. Ecology and EPA will jointly implement the TMDL redesign for workload planning.
- 3D. Ecology and EPA will meet at least once per year to conduct workload planning and evaluation for the development and implementation of TMDLs. Ecology will provide EPA with annual lists of TMDLs to be completed for the upcoming year and to prepare annual TMDL progress reports for the previous

year. EPA will provide Ecology with information on TMDLs for federal facilities and tribal lands.

- 3E. Ecology and EPA will develop innovative TMDLs for lakes and the US Forest Service using available data.
- 3F. Ecology and EPA will jointly develop a workplan for the development of TMDLs to address toxics listings in the Columbia and Snake River mainstems. Ecology and EPA will also to continue developing temperature and total dissolved gas TMDLs for these rivers.
- 3G. Ecology and EPA will support implementation of the Technical Master Plan developed in Phase 1 of ENVVEST at the Puget Sound Naval Shipyard.
- 3H. EPA will complete biennial progress reports to the Plaintiffs regarding implementation of the TMDL Settlement Agreement.

### **Resources**

Total Ecology FTEs: 69

Ecology FTEs funded by PPG: 30

Activities funded by PPG: 3A through 3G

### ***Water Quality Standards***

- 3I. Ecology and EPA will continue to work towards final approval of the revised state water quality standards. Ecology will adopt standards revisions by July 1, 2003 and submit to EPA immediately thereafter. EPA will promptly initiate consultation with the Services in order to complete their review and approval of the standards expeditiously.
- 3J. Ecology, with EPA's assistance, will develop guidance for implementation of key provisions within the water quality standards rule, such as antidegradation and use-attainability analyses (UAAs).
- 3K. Ecology will provide training and technical assistance to other programs, the regulated industry, and interested public in implementing the standards.
- 3L. After the revised standards are adopted, Ecology will provide a timely response or schedule to address requests for Tier III waters, UAAs or other tools. Ecology will discuss their



potential schedule with EPA for those changes requiring EPA action (i.e., approval).

- 3M. Ecology will provide technical assistance to others in the development of UAAs, variances, and other tools where the change in a standard appears appropriate and will consult with EPA when appropriate. EPA will provide timely response to UAA's and other tools requiring EPA action that Ecology submits to EPA for approval.
- 3N. EPA and Ecology commit to developing a long-term strategy for the water quality standards by December 31, 2003. As part of long term strategy development, Ecology will submit to EPA a description of nutrient criteria development that has occurred in the state and a strategy for further nutrient criteria development by September 30, 2003
- 3O. EPA will provide information to Ecology on tribal water quality standards changes in a timely manner.

#### **Resources**

Total Ecology FTEs: 3.5

Ecology FTEs funded by PPG: 2

Activities funded by PPG: 3I-3N

#### ***Water Quality Assessments***

- 3P. Ecology will comprehensively assess water bodies in order to categorize according to water quality status, and will maintain those categories, in particular the 305(b) report and 303(d) list.
- 3Q. Ecology will develop a statewide monitoring strategy by October 1, 2004 using the "Elements of a State Monitoring and Assessment Program" as a framework. This strategy will also build upon the "The Washington Comprehensive Monitoring Strategy for Watershed Health and Salmon Recovery".

#### **Resources**

Total Ecology FTEs: 27

Ecology FTEs funded by PPG: 12

Activities funded by PPG: 3P

#### **4. Stormwater (including CSOs and SSOs)**

Ecology Contact: Melodie Selby (360) 407-6460

[msel461@ecy.wa.gov](mailto:msel461@ecy.wa.gov)

EPA Contact: Kristine Karlson (Compliance/Enforcement) (206) 553-0290 [Karlson.Kristine@epa.gov](mailto:Karlson.Kristine@epa.gov), Misha Vakoc (Permits) (206) 553-6650 [Vakoc.Misha@epa.gov](mailto:Vakoc.Misha@epa.gov); and Kelly Huynh (CSO/SSO) (206) 553-8414 [Huynh.Kelly@epa.gov](mailto:Huynh.Kelly@epa.gov)

##### **Objectives:**

- Provide best available science, information, and tools to local governments and industry to manage stormwater.
- Expedite stormwater project review and delivery
- Provide a compliance pathway for stormwater management
- Develop a Phase II program that is consistent with Federal permitting programs and other environmental programs such as Superfund and National Estuary Program Management Plans
- All discharge permits implement WLA from EPA approved TMDLs

##### **Activities and Measures**

- 4A. Ecology will continue to manage the Phase I stormwater permit program. This includes construction, industrial and municipal stormwater permits.
- 4B. Ecology will notify EPA by July 31, 2003 of changes made by the 2003 State Legislature related to the development and timing of a Phase II stormwater program and present a draft strategy for program development.
- 4C. Ecology will include requirements to implement Ecology's CSO rule in all NPDES permits to combined sewer overflow (CSO) facilities. Ecology's rule is equivalent to the nine minimum controls outlined in EPA's 1994 CSO Control Policy. NPDES permits for each CSO facility shall also require compliance with an approved CSO reduction plan that includes public notification requirements and post construction compliance monitoring.
- 4D. Ecology will assure that all new NPDES permits include language prohibiting sanitary sewer overflows (SSOs) and requiring reporting if such SSOs occur.
- 4E. Ecology will implement the industrial stormwater general permit by providing technical assistance, support on appeal, data management and enforcement.

4F. Ecology will issue a revised construction stormwater general permit by July 31, 2003 and develop an implementation plan by August 31, 2003.

4G. Ecology will prepare an annual SSO report card. The report will include a list of SSO events, estimated volumes and solutions. The report will be submitted by April 1 of each year and cover the preceding calendar year.

### **Resources**

Total Ecology FTEs: 27

Ecology FTEs funded by PPG: 0

Activities funded by PPG: None

## **5. Groundwater**

Ecology Contact: Susan Braley (360) 407-6414

subr461@ecy.wa.gov

EPA Contact: Robin Slate (360) 753-9082 slate.rob@epa.gov

### **Objectives:**

- Groundwater quality standards are met and protect beneficial uses.

### **Activities and Measures**

5A. Ecology will implement groundwater protection efforts on a regional basis through the Washington State Waste Discharge program and by providing technical assistance as resources allow:

- (1) Ecology will implement the ground water quality standards through State Waste Discharge Permits and discharges to ground within NPDES permits.
- (2) Ecology will provide technical support for groundwater protection for larger multi-media projects (i.e. SeaTac Runway, LOTT, Battle Mountain Gold) and General permits (i.e. Sand and Gravel and Dairy General Permits).
- (3) Ecology will review and analyze hydrogeologic reports, engineering reports, plans and specifications, operation and maintenance and monitoring plans relating to point and nonpoint activities.

- (4) Ecology will provide expert witness to the Pollution Control Hearings Board during permit appeals affecting groundwater.
  - (5) Ecology will provide technical assistance on ground water issues including nonpoint source pollution, dairies, Confined Animal Feeding Operations (CAFOs), Timber Fish & Wildlife efforts, agriculture, and sand and gravel mining operations.
  - (6) Ecology will assist local governments with selected complex hydrogeologic issues on a resource-available basis.
  - (7) Ecology will provide inter-program technical peer review of reports and activities affecting or related to groundwater.
- 5B. Ecology will work to resolve difficult groundwater issues of statewide significance, including nutrient storage in the soils, wastewater reuse, dairy issues, aquifer storage and recovery, on-site sewage systems, metals mining, water treatment discharges, total dissolved solids (TDS) treatment and disposal, compost facilities, deminimus discharges, and other permit related issues. Resolution of these issues will be done in priority order and as resources allow. A significant issue of statewide concern for groundwater is how onsite systems are regulated. To that end:
- (1) Ecology will continue to participate in the onsite sewage systems rule revision being conducted at the Department of Health., including: being an active member of both the Technical Review Committee and the Rule Development Committee; providing technical assistance on impacts to groundwater quality; and recommending direction to DOH on rule requirements that are consistent with the groundwater quality standards.
- 5C. Ecology will commit to having a final UIC Rule adopted by May 31, 2004, provided no unforeseen circumstances prevent the adoption. To that end:
- (1) Ecology will provide EPA with a proposed draft revision to the State's UIC regulations by July 31, 2003.
  - (2) EPA will provide written comments back to Ecology on that proposal by September 30, 2003.
  - (3) Ecology will conduct a public comment process on the proposed rule, to include public workshops, hearings and responding to the comments.

- (4) Ecology will, if no substantial changes are made based on public comment, adopt a revised rule by May 31, 2004.
  - (5) Ecology will complete the EPA primacy packet for the UIC program by June 30, 2004.
- 5D. Ecology will implement the Underground Injection Control (UIC) program including:
- (1) Ecology will provide technical assistance to owners of private and publicly owned UIC wells. This includes answering phone and email inquiries on the rule and the database.
  - (2) Ecology will work with Ecology's stormwater program unit to incorporate UIC language in the Eastern Washington Stormwater Manual.
  - (3) Ecology will continue to revise the UIC rule. This includes holding advisory committee meetings, rewriting rule language, completing the state requirements for rule revisions, prepare guidance documents for UIC wells for private and public entities.
  - (4) Annual submittals by Ecology: Once per year, Ecology will submit the annual UIC 7520 reports to EPA and Ecology will submit inventory information to EPA electronically via the EPA website.
  - (5) Ecology will provide information to EPA regarding numbers of wells closed or permitted.
  - (6) Ecology and EPA may conduct UIC inspections in Washington State.
- 5E. Ecology and EPA will continue to participate in the Interagency Ground Water Committee (IGWC).
- (1) Ecology will be represented on the IGWC as a core work group member by attending and actively participating in IGWC meetings. This includes development of agendas, taking meeting minutes as requested by the Chair, soliciting expertise on specific issues, and following up on commitments made (such as participating on sub-committees, reviewing documents, etc).
  - (2) Ecology will maintain the listserv for the IGWC on the Ecology Groundwater website. This includes serving as

Listserv Manager, sending out pertinent groundwater information to the listserv, and updating the listserv as necessary to keep current.

(3) EPA will actively participate on the IGWC.

5F. Ecology will develop information for the website including aquifer maps and areas of known groundwater quality problems. One use of this information would be to guide nonpoint grants.

(1) Ecology will develop a nitrate/dairy atlas and data report to assist both the nonpoint grant process and the dairy/CAFO strategic planning process.

(2) Ecology will develop TDS data and information to assist regional staff in dealing with difficult groundwater issues in their area.

(3) Ecology will develop and provide other groundwater quality data as staff resources allow.

5G. Ecology will work with the Washington Department of Health to incorporate the results of source water assessments of drinking water systems into enforcement, education, and technical assistance efforts as resources allow.

(1) Ecology will provide technical and educational efforts on source water assessment by working with local jurisdictions on Critical Aquifer Recharge Area ordinances related to the protection of groundwater, and will consult with DOH as needed. These efforts will improve the ability of local jurisdictions to provide enforcement, education, and technical assistance efforts for source water protection throughout the state. Ecology will review a limited number of local ordinances, depending on staff resources, and provide technical assistance and information.

(2) Ecology will ensure that regional staff have access to WDOH data and have mapping capabilities, so they can apply source water assessment information when working on permits and other issues.

(3) Ecology will assess having a joint training with WDOH for Ecology staff on the new WDOH data system, when it becomes available.

- (4) EPA will convene and participate in meetings with Ecology and WDOH on a quarterly basis, or other schedule as appropriate, to discuss issues such as: incorporation and use of WDOH's source water assessments website and related information, transfer of Ecology data to WDOH for use in the source water assessments, and other issues related to protecting ground water resources.

### **Resources**

Total Ecology FTEs: 7

Ecology FTEs funded by PPG: 7

Activities funded by PPG: 5A through 5G

## **6. Wetlands**

Ecology Contact: Andy McMillan (360) 407-7272

anmc461@ecy.wa.gov

EPA Contact:

### **Objectives:**

- Protect and restore wetlands in Washington State

### **Activities and Measures**

- 6A. Ecology will develop and produce Best Available Science documents on wetlands for use by local governments by December 31, 2003.
- 6B. Ecology will complete training workshops for local governments on wetland protection approaches by September 30, 2004
- 6C. Ecology will develop new guidance documents on wetland mitigation by June 30, 2004.
- 6D. Ecology will develop guidance materials on incorporating landscape-scale principles into local comprehensive and shoreline planning by June 30, 2005.

### **Resources**

Total Ecology FTEs: 5.0

Ecology FTEs funded by PPG: 0

Activities funded by PPG: None

## **7. Sediments**

Ecology Contact: Kathryn Carlin (360) 407-7242  
kbco461@ecy.wa.gov  
EPA Contact: John Malek (206) 553-1286  
malek.john@epa.gov

### **Objectives:**

- Cleanup and restore existing contaminated sediments and prevent future sediment contamination.

### **Activities and Measures**

- 7A. Ecology will update the Sediment Cleanup Status Report by June 30, 2005.
- 7B. Ecology will develop freshwater sediment criteria and implement supporting guidance for freshwater sediment site assessment by June 30, 2005.
- 7C. Ecology will develop SEDQUAL Information Management System benthic abundance analysis component for sediment site assessment by June 30, 2005.
- 7D. Ecology will continue to participate with the Bellingham Bay Pilot partners in implementing planned Bellingham Bay cleanup and restoration plan actions.
- 7E. Ecology sediment staff will provide ongoing support to Ecology's water quality staff for the development of Total Maximum Daily Loads (TMDL) policy and compilation of the 303(d) Impaired Water Bodies list as related to sediment quality.

### **Resources**

Total Ecology FTEs: 2.5  
Ecology FTEs funded by PPG: 0  
Activities funded by PPG: None



## **8. Administrative**

Ecology Contact: Joe Witczak (360) 407-6499 jwit461@ecy.wa.gov

EPA Contact:

### **Objectives:**

- The PPA is managed for efficiency and accountability.
- Electronic data sharing is the preferred mechanism to transfer information

### **Activities and Measures**

- 8A. Ecology will develop water quality performance measures and report these to EPA on a semi-annual basis by August 31 and February 31 of each year.
- 8B. Ecology will provide a written status report on the commitments in this PPA to EPA on a semi-annual basis by August 31 and February 31 of each year. Ecology will post this status report on their PPA website.
- 8C. Ecology and EPA water quality managers will meet annually to discuss key water quality issues and progress in meeting the commitments in this PPA.
- 8D. EPA will participate in Water Quality Program management meetings when necessary to coordinate an effective water quality program. EPA will provide Ecology with relevant information on implementing water quality regulatory programs including water quality protection programs of other states to assist Ecology. EPA will notify Ecology of any federal law, regulatory change, or policy interpretation that would necessitate a change in State law to maintain a delegated program. Ecology will work with EPA to develop appropriate responses to such notifications.

### **Resources**

Total Ecology FTEs: 1

Ecology FTEs funded by PPG: 0

Activities funded by PPG: None

## SECTION TEN

# RESPONSIVENESS SUMMARY

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This Responsiveness Summary addresses comments on the Draft Environmental Performance Partnership Agreement received during the public comment period, May 1 – June 2, 2003. One comment letter was received during the comment period. The first section below reproduces the comment letter, the next section presents Ecology and/or EPA responses to the public comment letter, and the last section summarizes textual changes made in the PPA in response to the public comment, as well as any other non-substantive changes made for clarity, correction, etc.

### ***PUBLIC COMMENT LETTERS***

#### **Columbia River Inter-Tribal Fish Commission**

#### **COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

729 N.E. Oregon, Suite 200, Portland, Oregon 97232

Telephone (503) 238-0667  
Fax (503) 235-4228

June 2, 2003

VIA U.S. MAIL AND FACSIMILE

Mr. Elliott Zimmermann  
Washington Department of Ecology  
300 Desmond Drive  
P.O. Box 47600  
Olympia, WA 8504-7600  
Fax: 425-649-7098

RE: Comments on the Environmental Performance Partnership  
Agreement for FY 2003-2005

Dear Mr. Zimmermann:

The Columbia River Inter-Tribal Fish Commission (CRITFC)<sup>1</sup>  
appreciates this opportunity to provide comments on the  
Environmental Performance Partnership Agreement for FY 2003-

2005 (hereinafter "PPA"). CRITFC and its member tribes have a significant interest in how Washington implements statutory obligations that affect fish habitat, since fish are valuable treaty and cultural resources, particularly anadromous salmonids and lamprey. We are always concerned about issues such as the release pollutants, toxic materials and hazardous materials into fish-bearing water ways; the de-watering of streams; activities that increase levels of temperature, dissolved oxygen and dissolved gas; and release of excess sediment into waters.

In general, we approve of the many laudable goals included in this PPA, including a focus on achieving results. We do, however, have some specific comments that we include below:

- ❖ (page 6) While we agree that using "adaptive management" as a tool for implementing programs, we want to emphasize that adaptive management should not be used to avoid making tough planning and enforcement decisions. In the past, adaptive management has been used as a way of putting off contentious issues.
- ❖ (page 6) The PPA notes that Ecology and EPA have relationships with federally recognized Indian tribes in Washington State. Ecology should also include some federally recognized Indian tribes outside of the state. Some of these tribes have treaty rights to resources on or affected by Washington, or even have ceded territory within the state. Ecology is often required to inform or consult with "appropriate tribes" which could include tribes such as the Confederated Tribes of the Umatilla, the Nez Perce Tribe and the Confederated Tribes of the Warm Springs Reservation.
- ❖ (page 15) We understand the need for increasing efficiency in processes, but we do not want Ecology to forgo proper enforcement or monitoring in order to increase efficiency. For example, do not remove important safeguards when "streamlining" the permit process - especially public participation.

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<sup>1</sup> In 1977, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Nez Perce Tribe, and the Yakama Nation created the Columbia River Inter-Tribal Fish Commission (CRITFC). These four tribes have 1855 treaty rights to take fish that pass their usual and accustomed fishing places. Consequently, it is of critical importance to the tribes to protect and conserve the habitat and life cycle of the fisheries. CRITFC functions to protect, promote, and enhance the Columbia River Basin's anadromous fish resources consistent with the treaty-secured interests of its member tribes by formulating a broad, general fisheries program, and providing technical and legal support.

- ❖ (page 37) We are pleased with your "Beyond Waste" objectives and we encourage Ecology to follow through with this objective to the extent practicable.
- ❖ (page 38) The PPA does not indicate any sort of time frame for Ecology to fulfill its compliance assurance mandates, i.e. inspections. The PPA should at least have a stated goal.
- ❖ (page 43) Our tribes are particularly concerned in the cleanup and other issues surrounding the U.S. Department of Energy's Hanford Nuclear Reservation. There are so many hazardous wastes, toxic pollutants and nuclear wastes in the area, all with the potential of harming fish, wildlife and the health of tribal people. We applaud Ecology's inspection plans, but we are concerned that the TPA is unduly delaying cleanup of the site and would encourage Ecology to move to that end. We would also encourage Ecology to continue to improve its RCRA program.

*General Comments on the Water Quality Section:*

We would encourage Ecology to improve its water quality monitoring programs which have been poor, sporadic and inconsistent in the past. For example, Ecology needs to revise its temperature compliance monitoring system to include continuous and comprehensive temperature values that are recorded on an hourly basis rather than at random, non-designated times.

Throughout the TMDL/Water Quality Standards section, the PPA does not mention any of the specific standards (temperature, dissolved oxygen, dissolved gas, toxins, etc). In addition, the PPA should acknowledge that adequate waterfowl are a means by which to regulate water quality during the summer. Ecology should also increase availability of monitoring data, such as publishing such data on the internet.

- ❖ (page 46) Ecology's watershed based approach to water quality management is an appropriate frame work for restoring water quality
- ❖ (page 48) Nonpoint source pollutants are recognized the primary cause of water quality degradation in our Nation's water. Ecology, as part of their nonpoint source control program must commit to full implementation of the Water Quality Management Plan to Control Nonpoint Source Pollution to eliminate this pollution source.
- ❖ (page 49) NPDES discharges should comply with the more stringent of BMPs or water quality standards.

- ❖ (page 54) Water Cleanup Plans (TMDLs and Standards) should protect existing uses as well as beneficial uses.
- ❖ (page 55) The PPA does not state how many TMDLs are outstanding, just that Ecology will complete 100 by June 2005. Also, to what size watershed do these TMDLs apply?
- ❖ (page 55) The PPA notes in #3C that the agencies will jointly implement the "TMDL redesign" - it is not clear what this refers to.
- ❖ (page 56) In #3M, the PPA states that Ecology will "provide technical assistance" in developing UAAs. We are concerned that this would be a huge burden on Ecology and that state resources should probably not be used to help private parties justify exceptions to water quality standards. (page 56) Ecology must ensure that all efforts are taken to comply with state water quality standards prior to initiating a UUA process.
- ❖ (page 56) Ecology should include a provision to ensure government consultation with affected tribes any UAA approval process for a proposed designated use change. This consultation is necessary to insure that disproportionate cultural or financial losses to tribes are fully considered. (page 56) Ecology should include provisions to commit to updating and improving water quality standards for toxic contaminants.
- ❖ (page 63) We are encouraged by Ecology's commitment to develop sediment criteria as stated in #7B.

CRITFC appreciates this opportunity to comment on the PPA. Should you have questions regarding these comments, please contact Julie Carter or Patti Howard at (503) 238-0667.

Sincerely,

Olney Pat, Jr.  
Executive Director  
Columbia River Inter-Tribal Fish Commission

cc:

Jack Boller, U.S. Environmental Protection Agency, Region 10,  
Washington Operations Office, 300 Desmond Drive, Suite 102,  
Lacey, Washington 98503.

## ***ECOLOGY AND EPA RESPONSES TO PUBLIC COMMENTS ON THE DRAFT FY2004-05 PERFORMANCE PARTNERSHIP AGREEMENT (PPA)***

### **RESPONSE TO THE COMMENTS BY THE Columbia River Inter-Tribal Fish Commission:**

#### **RESPONSES TO OVERALL COMMENTS ON THE PPA**

- 1. (page 5):** The term “adaptive management” is used in the Section of the PPA entitled “Measuring for Environmental Results”. The statement is made that “Through adaptive management, these measures and indicators also help to refine or otherwise change approaches to improve the effectiveness of respective agency programs.” This is not meant to imply any avoidance of planning or enforcement issues. The intent is to be able to shift resources, including planning and enforcement resources, to areas where environmental indicators may indicate that serious environmental threats are developing.
- 2. (page 6):** We agree with this comment that certain tribes outside the state of Washington should be recognized. The sentence in the PPA has been changed to read: “Ecology and EPA have relationships with federally recognized Indian tribes that have treaty rights in Washington State and that are sovereign nations having regulatory authorities within Indian Country and rights and resources reserved by treaties or by other means.”
- 3. (page 15):** It is certainly not the intent of Ecology to forego enforcement or monitoring activities in order to increase efficiency. In particular, concerning the permit “streamlining” process, much of the public participation activity is specified in State regulations; Ecology does not have the discretion to change this.
- 4. (page 37):** Ecology is proceeding on schedule with the “Beyond Waste” project.

**5. (page 38):** Unless otherwise specified, all work in the PPA must be completed within the two year framework of the PPA. For some Programs and for some types of work (for example, inspections by the Nuclear or Hazardous Waste Programs), schedules are more specific, but are enforcement confidential. All Programs are required to have a written mid- and end-of-PPA accounting of work accomplishments. Any exceptions to completion of agreed tasks must be explained in detail. Ecology Programs also normally have mid- and end-of-PPA meetings with their EPA counterparts to discuss progress in task completion.

**6. (page 43):** The environmental issues surrounding the Hanford Nuclear Reservation are massive and complex. Ecology believes it is pushing as hard as it can to address the cleanup and other environmental issues at Hanford. The environmental and bureaucratic complexities of Hanford seem overwhelming at times. Ecology will continue to do its best, within the constraints it must operate under, to resolve the many hazardous waste, toxic pollutant, and nuclear waste issues at the facility.

## **RESPONSES TO COMMENTS ON THE WATER QUALITY SECTION OF THE PPA**

**7. (General Comment on WQ Section):** We agree that continuous temperature monitoring is an important objective. The Department of Ecology began adding continuous temperature monitors at its long-term ambient monitoring stations during the summer of 2001. That year, temperature monitors were deployed at 44 of our long-term stations, and additional stations have been added each summer since. For more detailed information about our water quality monitoring program, please see our web site at: [http://www.ecy.wa.gov/programs/eap/fw\\_riv/rv\\_main.html](http://www.ecy.wa.gov/programs/eap/fw_riv/rv_main.html).

In addition to our ambient monitoring program, many additional continuous temperature monitors have been deployed in support of total maximum daily load (TMDL) studies and other special investigations across the state.

*In an effort to improve our overall monitoring program and to address continuous temperature monitoring, we have added a new activity (Activity 3Q in the final PPA) which states:*

- 3Q. Ecology will develop a statewide monitoring strategy by October 1, 2004 using the "Elements of a State Monitoring and Assessment Program" as a framework. This strategy will also build upon the "The Washington Comprehensive Monitoring Strategy for Watershed Health and Salmon Recovery".

**8. (General Comment on WQ Section):** We tend to only address specific criteria in the PPA when there are specific tasks associated with them. Otherwise, we refer to the standards as a whole. We agree that water flow is an important aspect to addressing water quality and consider water flow when conducting TMDL studies and issuing permits. Ecology works with the state funded Water Resources Program to coordinate these efforts.

Water monitoring data can be found on the internet at the link listed in the preceding response.

**9. (page 46):** Ecology and EPA agree with you. Thank you for your support.

**10. (page 48):** We agree that effectively managing nonpoint pollution is a significant challenge to cleaning up the states waters. It is our intent to implement the nonpoint plan, but we face significant resource issues and the difficulty of getting individuals to change their actions that impact water quality. Also, we have had difficulty getting approval of this plan from the federal agencies under the Coastal Zone Management Act. Without this approval, there will be additional resource limitations to implementing the plan.

**11. (page 49):** Ecology and EPA agree that NPDES discharges are subject to both numerical limits such as the water quality standards, and technology requirements such as BMPs. Therefore, we will change the second objective listed for "Point Source Pollution Control" to read:

- All discharges are in compliance with permits, water quality standards, BMPs ~~or~~ and other requirements to protect Washington's waters. "

**12. (page 54):** Ecology and EPA agree and consider existing uses when evaluating beneficial uses.

**13. (page 55):** Ecology's schedule for completing TMDLs can be seen on this website: <http://www.ecy.wa.gov/programs/wq/tmdl/index.html>. Additional information on outstanding TMDLs can be found on pages 16 and 17 of Ecology's publication "Final Statewide 303(d) Workload Assessment" (#01-03-018, May 2001).

Watersheds are based on Washington's 62 Water Resource Inventory Areas. They are slightly larger than a 4<sup>th</sup> level hydrological unit. Most of our TMDLs address all the contaminants of concern for the watershed and



are referred to as “single entry TMDLs”. However, a few single contaminant TMDLs are still done.

**14. (page 55):** The TMDL Redesign was a year 2000 agreement between Ecology and EPA Region 10 to work more closely together on developing, submitting, and approving TMDLs. It resulted in the EPA setting priorities for each TMDL.

Each year, a new TMDL project priority list is developed, publicly reviewed, and finalized in July. In an August/September joint meeting, Ecology and EPA-Region 10 assign priorities to new projects. These priorities have special meaning as to the level of EPA's involvement. The early identification and involvement of EPA reviewers has resulted in improved coordination and TMDLs being approved within the 30-day window established by the Clean Water Act.

**15. (page 56):** We agree that doing UAA's could be a significant burden on our resources. Ecology will develop guidance to help people determine whether a UAA is worth seeking. In addition, where there are legitimate issues, we will work with the communities to address those issues and determine whether a UAA makes sense and is a worthwhile investment.

**16. (page 56):** Ecology and EPA agree.

**17. (page 56):** Ecology worked with some of the tribes in Washington to develop language on tribal involvement in UAAs. That language will be incorporated into Washington's updated Water Quality Standards that will be adopted by July 1, 2003.

**18. (page 56):** Changing the water quality standards is an expensive process and needs to be taken on with great care given the scarce resources in state government. Given that we've been working on the recent rule changes for 10 years, we intend to turn our attention to implementing these changes. While it's true that standards are important in terms of establishing how clean water needs to be, actual environmental protection and improvement occurs through attention to implementing the standards.

In the future, there will be interest, both by Ecology and with various interest groups, in exploring further changes. When that time comes, we will engage in broad dialogue to identify potential changes, prioritize issues, and establish a scope for future rulemaking. We don't have a schedule for this future effort at this point.

**19. (page 63):** Ecology and EPA appreciate your support for developing freshwater sediment criteria.

## ***CHANGES TO THE FINAL FY2004-05 PPA FOR CLARIFICATION, TO CORRECT ERRORS, AND TO RESPOND TO PUBLIC COMMENT***

### **THE FOLLOWING CHANGES HAVE BEEN MADE IN THE FINAL DRAFT FOR CLARIFICATION OR CORRECTION (NOT IN RESPONSE TO PUBLIC COMMENT):**

1. A number of small changes were made in references to Ecology's Compliance Assurance Manual to clarify that this document was revised in June of 2002.
2. Corrections were made to the total PPA Grant amount and \$/FTEs for the Hazardous Waste and Toxics Reduction Program.
3. The following corrections/changes were made to the Water Quality Program's Section of the PPA:
  - The distribution of FTEs among the different Objectives in the PPA were changed to reflect final Program Planning decisions;
  - Action 2R was changed to reflect the outcome of the 2003 legislative session, which transferred Ecology's Dairy Program to the Department of Agriculture.
  - A new Action 1F was added (it was omitted by oversight from the Public Comment draft). Following is the text of Action 1F:  
"Ecology and EPA will continue to participate on Forests and Fish committees and workgroups, particularly the Policy Committee and CMER. Ecology and EPA will continue to work with DNR and other agencies on federal assurances associated with the Forests & Fish Agreement, including ESA assurances and CWA compliance."

**THE FOLLOWING CHANGES HAVE BEEN MADE IN THE  
FINAL DRAFT IN RESPONSE TO COMMENTS BY THE  
Columbia River Inter-Tribal Fish Commission:**

1. The first sentence in the Section "Tribal Relations" on page 6 has been changed to read:

"Ecology and EPA have relationships with federally recognized Indian tribes that have treaty rights in Washington State and that are sovereign nations having regulatory authorities within Indian Country and rights and resources reserved by treaties or by other means."

2. The following new Activity has been added to the Water Quality Program Section:

3Q. Ecology will develop a statewide monitoring strategy by October 1, 2004 using the "Elements of a State Monitoring and Assessment Program" as a framework. This strategy will also build upon the "The Washington Comprehensive Monitoring Strategy for Watershed Health and Salmon Recovery".

3. The second objective listed for "Point Source Pollution Control" in the Water Quality Program Section has been changed to read: "All discharges are in compliance with permits, water quality standards, BMPs ~~or~~ and other requirements to protect Washington's waters."